

1950.



File No. CIV A. A

Motor Transport

DEPARTMENT

BRANCH

SD

pt. T.

Subject:—

Civil Appeals and
Applications regarding
Motor Transport

(For previous Mrs. ^{1st 2nd}
Parts I & II)

For subsequent Mrs. ^{1st 2nd}
Parts III & IV

DE 9/10

CIV. A. A Motor Transport / 50
Part III

File No.

Std. Book. 24-B

509-4

10/10/70

Civil Application No. 327 of 1950.

Motor Vehicles (Bombay Amendment) Act 1947

The Road Transport Corporation Act of 1948.

)
)
)
)
)
) PETITIONER

1. The State of Bombay.

RESPONDENTS.

The Humble Petition of the petitioners abovenamed
humbly Showeth:-

1. The petitioners are a limited company incorporated in India and having their office at Belgaum. Respondents Nos. 2 is the officer of Respondent No.1 incharge of the administration of the Motor Vehicles Act 1939 and Respondents No. 3 is the authority constituted under the said Act.

2. Prior to 1943 several persons carried on business of plying motor buses for carriage of passengers on different routes in the Southern part of the State of Bombay, Acting under the directions given from time to time by the - - authorities administering the Motor Vehicles Act 1939 (hereafter referred to as the said Act) the said persons firstly formed themselves into a Union and thereafter in the year 1943 promoted the Petitioners company with themselves as its members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The petitioners took over the said businesses and have been carrying on the business of Motor transport on different routes round about Belgaum. All the members of the petitioners are domicile citizens of India.

3. After the businesses were taken over by the petitioners as aforesaid the petitioners were granted Stage carriage permit No.P.St.S\175(1-38) by the authorities under the said Act of a duration contemplated by Section 58 of the Act and said Permit was renewed to the Petitioners under Section 58 Sub Clause 2 and the duration of the last such renewed permit was due to expire on 6-1-1949.

4. On 5th November 1948, as required under the law the petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for the renewal of their aforesaid permit expiring on 6-1-1949. A copy of the said application is annexed hereto and marked as Exhibit "A". The said Officer acting under the directions of the respondents, did not proceed with the said application in accordance with the provisions of sections 57 and 58 of the said Act but renewed the permit for stage carriages from time to time for a duration only of a period of four months at a time upto 6-1-1950 and thereafter from 7-1-1950 to 31-1-1950 and from 1-2-1950 to 28-2-1950 and from 1-3-1950 to 21-3-1950.

5. On the 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum, by his letter of that

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date forwarded to the petitioners a copy of the Government Notification, Home Dept. No. 4714/5 dated 31-8-1949 which declared the intention of the Government to cancel the permits specified in the schedule annexed to that Notification which included the permit of the petitioners and proceeded to state that that officer was directed to inform the Petitioners that although the validity of the Petitioners temporary permit extended beyond 30-10-1949 and same should be treated as valid upto 30-11-1949, Hereto annexed and marked Exhibit "B" is a copy of the said letter and the relevant extracts of the said Notification No. 4714/5.

6. The Government Notification No. 4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub section (1) of Section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of sub section (1) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and Regional Transport Authority Belgaum. The Petitioners state that the petitioners and several other owners of transport business in the Karnatak Region were vitally affected by the powers exercised by the Government by the Notification aforesaid and yet no - - representative of the petitioners was heard as stated in the said Notification and that the Petitioners, on inquiries have learnt that no representative of any of the owners of the Motor Transport business in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary Regional Transport Authority Belgaum by his letter dated 1-2-1950 informed the petitioners that the State

State Transport may take over services operated by the petitioners on the routes of the petitioners or any portion ~~th~~ thereof from 1-3-1950. Hereto annexed and marked "C" is the copy of the aforesaid letter.

8. The petitioners state that the action of the Respondent No.1 in issuing the said Notification No. 4714/5 has been mala fide in as much as Respondent No.1 or any other Respondents have not at all heard the representatives of the interests affected by the said Notification. The petitioners submit that the said Notification, is illegal, void and inoperative. The Petitioners further submit that the conduct of the Officers of the Government including the Secretary of the Regional Transport Authority Belgaum and of the Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the directions given to them from time to time by respondent No.1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said Officer and Authorities have refused to consider the application of the petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in sections 57 and 58 and to renew the permit of the petitioners for a period not less than three years and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the permit of the petitioners for very short durations as stated in paragraph 5 hereof. The aforesaid conduct of the respondents and of the officers of the respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past 3 years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport Services and in pursuance thereof they started a Department of State Transport which has been plying Motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers - - -

powers conferred upon them by the Road Transport Corporation Act, XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No.1780/5 dated 16th November 1949 and have thereunder appointed a certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this petition the 2nd respondent has been the Provincial head of the Officers administering the said Act and has also held the position of the Provincial head of the Transport business carried on by the 1st respondent as State Transport Corporation-. With a view to carry out the policy of the 1st Respondents calculated to oust and supplant the entire business of the Motor transport by private individuals the 2nd Respondent and the Officers subordinate to him as well as the Provincial Transport Authority and Respondents No.3 have acted in accordance with the directions of the 1st respondents given to them and have not used any independent judgment of their own in deciding matters relating to the permit of the petitioners and the renewal thereof since 6-1-1949 and their decisions have been biased and prejudiced. The respondents 1 and 2 have in the above matters from time to time given directions to the Officers and to Respondents No.3 entrusted with the administration of the said Act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the Petitioners and have intentionally and deliberately violated and circumvented the provisions of the said act as well as of Road Transport Corporation Act relating to the prescribed amount of the compensation payable to the petitioners in respect of the taking over of their business by passing such order as will reduce to a minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its good will under the said Act as well

well as the Road Transport Corporation Act.

11. At the instance of the 1st and 2nd respondents the 3rd respondents addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and the letter contained in Ex.C and also renewed their permits on a temporary basis and between 7-1-1950 to the date of this petition, the renewals were all made for the same periods as the renewals of the petitioners' permit. The obvious object of the said letter dated 20-9-1949 and the said letter contained in Ex.C and similar letters addressed to others was that as soon as the buses of the State Transport or the said Corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd respondents would cancel the subsisting permits of the private operators and would refuse to renew any permit which had expired. The petitioners state that the temporary renewals of the permits of the petitioners and others in the area were devised to suit the convenience of the State Transport department and the said Corporation of the State Transport department and the Corporation who had not been able to complete their preparation for starting their services.

12. Under article 14 of the constitution of India the Petitioners are entitled to a treatment before the Law and protection of the law equal with the Transport business carried on by the 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19(g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the permit of the petitioners the Petitioners have had no fair trial and the petitioners apprehend that they have no chance of a fair trial of their

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their ease at the hands of the Officers and the Official
bodies administering the Motor Vehicles Act, and that the
fundamental rights under Articles 14 and 19(g) of the
Constitution are violated by the Respondents and the officers
and bodies administering the said Act. The respondents have
failed to notice that after the Constitution of India came
into force such of the provisions of the said Act as
contravene the provisions of the Road Transport Corporation
Act and the fundamental rights of the petitioners are
inoperative and that the respondents and all officers are
bound to administer the said act so as not to violate the
fundamental rights of the petitioners.

14. The Petitioners state that with the object of totally
ousting the petitioners from their business and in its stead
carrying on similar business themselves through the Bombay
State Road Transport Corporation and with the object of
depriving the petitioners of their business and any right to
claim compensation for goodwill and loss of business and
capital invested therein the respondents have failed and
neglected to and have directed their officers not to renew
the permits of the petitioners and have threatened to cancel the
same from 1-3-1950 and misused the powers under and
provisions of the said Act.

15. The Petitioners submit that the functions to be
discharged by the 2nd respondent and the officers and bodies
subordinate to him in the matter of renewal of State Carriage
permit of the petitioners and of taking over and ascertaining
compensation for the business of the petitioners are judicial
functions and that the 2nd respondent and the officers
subordinate to him including the Provincial Transport Authority
Bombay and Respondents Nos. 3 have acted in accordance with
the directions of the 1st and 2nd respondents and failed to
exercise their discretion and the powers vested in them and
acted irregularly therein and have acted in excess of the

of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

16. The Petitioners submit that it is in the interests of justice that this Hon'ble Court should issue a writ of prohibition or make other suitable order against the respondents ordering them or any of them not to do any act or pass any order ~~xxxx~~ based on the said Government Notification No.4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the - - - Petitioners from or depriving them of their existing business of transport by stage carriages.

17 The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the Writ of Certiorari calling for the records of proceedings relating to the Permit for stage carriages of the petitioners before the Hon'ble Court and ~~xxxxxxxxxxxx~~ after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

18. The Petitioners submit that it is in the interest of justice that the respondents No.3 be ordered by an order and mandatory injunction of this Hon'ble Court to renew the permit for Stage carriage of the petitioners for a period of not less than three years.

19. The Petitioners submit that it is necessary in the interests of justice that the respondents be prohibited by a Writ of prohibition from themselves issuing orders or giving directions to the Officers or bodies administering the said Act to cancel the Stage carriage permit of the petitioners and from passing any orders other than the order renewing the stage carriage permit of the Petitioners and from doing any act calculated to prejudicially affect the business of transport by stage carriage carried on by the petitioners.

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20. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its power of Superintendence call for the records of proceedings relating to the stage carriage permit of the petitioners and pass such orders as justice of the case may require.

21. The Petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

22. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this petition the respondents may be restrained by an order and injunction of this Hon'ble Court from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by stage carriages carried on by the Petitioners.

23. The orders passed by the directions given by the respondents Nos. 1 and 2, were all passed and given in the City of Bombay, the orders passed by the Respondents Nos. 3 and the officers and bodies subordinate to the respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this petition.

24. The Petitioners, therefore pray:-

- (a) That this Hon'ble Court will be pleased to issue a writ of prohibition or other suitable order against the respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification No. 4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the petitioners from or depriving them of the existing business of transport by stage carriages.

(b)

(b) That this Hon'ble Court may be pleased to issue a writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority Belgaum relating to the permit for stage carriages of the petitioners. before this Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary.

(c) That this Hon'ble Court will be pleased to issue a mandatory injunction against the respondents Nos.3 and order them to renew the permits for Stage Carriage of the Petitioners for a period not less than three years.

(d) That in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for the records of proceedings relating to the stage carriage permit of the petitioners and pass such orders as just of the case may require.

(e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by stage carriages carried on by the Petitioners and may further be ordered to renew the permit.

(f) That such order as to this Honourable Court may seem fit be made as regards the costs of the petitioners -

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petitioners of this Petition.

and

(g) That the petitioners may have such further
and other relief as the nature of the case may
require.

Petition drawn by)
Messrs. Gokhale Kale)
& Co., Attorneys at-)
-law.....)

I, H. M. Jamadar resident of
Baihongal Dist. Belgaum now temporarily residing at Hornby
Road, Fort, Bombay a Director of the petitioners able to
depose to the facts of this petition solemnly declare and
state that what is stated in paragraphs 1, 2, 3, 4, 5 part
6 and 7 of the foregoing petition is true to my knowledge
and what is stated in the remaining paragraphs is stated on
information and belief and I believe the same to be true.

Sd. H.M. Gamadar.

Solemnly declared at Bombay)
aforesaid this 23rd day of)
February 1950,)

Before me ?

(Usual affirmation clause fellows).

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:

ORDINARY AND INHERENT JURISDICTION

Civil Application No.328 of 1950.

In the matter of Motor Vehicles Act
1939 Motor Vehicles (Bombay Amendment)
Act 1947;

and

The Road Transport Corporation Act of
1948.

The National Motor Transport Company)
Limited, a company registered under)
the Indian Companies Act 1913 and ---)
having its registered office at)
Belgaum District Belgaum.) Petitioners.

v e r s u s

1. The State of Bombay.)
2. The Provincial Transport Officer)
of the Government of Bombay having)
his office at Churchgate, Bombay.)
3. The Regional Transport Authority)
Karnatak R^egion, Belgaum being a)
body constituted under the Motor)
Vehicles Act 1939.) Respondents.

To,

The Hon'ble Chief Justice and the other Judges
of this Honourable Court.

The humble Petition of the Petitioners abovenamed humbly
Sheweth:

1. The Petitioners are a company registered under
the Indian Companies Act, 1913 and having their registered
office at Belgaum in District Belgaum. Respondent No.2

is the officer of Respondents No.1 in charge of the administration of the Motor Vehicles Act, 1939 and Respondents No.3 is the authority constituted under the said Act.

2. Prior to 1943 several persons carried on business of plying Motor buses for carriage of passengers on different routes in the southern part of the State of Bombay. Acting under the directions given from time to time by the authorities administering the Motor Vehicles Act 1939 (hereinafter referred to as 'the said Act.') The said persons firstly formed themselves into a Union and thereafter in the year 1943 promoted the Petitioner Company with themselves as its members for the purposes of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The Petitioners took over the said businesses and have been carrying on the business of Motor Transport on different routes in the southern part of the State of Bombay, All the members of the Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage Permit No. P. St. S. 178 (1-34) by the authorities under the said Act of a duration contemplated by Section 58 of the Act and the said Permit was renewed to the Petitioners under Section 58 sub-clause 2 and the duration of the last such renewed permit expired on 6-1-1949.

4. On 2nd September 1948 as required under law the Petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for renewal of their aforesaid Permit expiring on 6-1-1949, a copy of the said application is annexed hereto and marked as Exhibit "A". The said officer acting under the orders of the Respondents did not proceed with the said application in accordance with the provisions of the Section 57 and 58 the said Act but renewed the Permit for Stage Carriage from time to time for a duration only of a period of four months at

a time upto 6-1-1950 and thereafter from 7-1-1950 to 31-1-1950, from 1-2-1950 to 14-2-1950 and the period was extended up to 28-2-1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date forwarded to the Petitioners a copy of the Government Notification, Home Department No. 4714/5 dated 31-8-1949 which declared the intention of the Government to cancel the Permits specified in the Schedule annexed to that Notification which included the Permit of the Petitioners and proceeded to state that that officer was directed to inform the Petitioners that although the validity of the Petitioners' Temporary Permit extended beyond 30-11-1949 the same should be treated as valid upto 30-11-1949.

Ex. "B".

Hereto annexed and marked Exhibit "B" is a copy of the said letter and the relevant extracts of the said Notification No. 4714/5.

6. The Government Notification No. 4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub-section (1) of Section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the Permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of sub-section (I) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and Regional Transport Authority, Belgaum. The Petitioners state that the Petitioners and several other owners of transport business in the Karnatak Region were vitally affected by the powers exercised by the Government and by the Notification aforesaid and yet no representative of the Petitioners was heard as stated in the said Notification and that the

Petitioners on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification, and the declaration therein or the exercise of the powers therein--mentioned.

7. Subsequent to the date of the said Notification the Secretary Regional Transport Authority, Belgaum, by his letter dated 29-11-1949 stated that the Petitioners had been granted a temporary extension of one month from 1-12-1949 in respect of the Petitioners' Temporary permit. By two letters one dated 30-12-1949 from the Secretary, the Regional Transport Authority Belgaum, and another dated 31-12-1949 from the Secretary Regional Transport Authority, Poona, the Petitioners were given notices worded in identical terms of the fact that as the State Transport had applied for permit on the routes hitherto operated by the Petitioners it was likely that the Petitioners may not be able to operate on those routes after 31-1-1950. By his letter dated 20-1-1950 the Secretary, Regional Transport Authority, Belgaum informed the Petitioners that the date of taking over bus services by the State Transport had been postponed to 15-2-1950 and that the Petitioners may operate their bus services upto 14-2-1950 and that it was likely that the Petitioners may not be able to operate the said services after 14-2-1950. Hereto annexed and collectively marked Ex.. "C" are copies of the aforesaid correspondence.

8. The petitioners state that the action of the Respondent No.1 in issuing the said Notification No. 4714/5 has been mala-fide inasmuch as Respondent No.1 or the other respondents have not at all heard the representatives of the interests affected by the said Notification. The Petitioners submit that the said Notification is illegal, void and inoperative. The Petitioners further submit that the conduct of the

the officers of the Government including the Secretary Regional Transport Authority Belgaum ~~and~~ of the Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the Directions given to them from time to time by Respondent No.1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said officer and authority refused to consider the application of the Petitioners for renewal of their permit and have ~~failed~~ ^{failed} and neglected to ~~follow~~ the provisions laid down in sections 57 and 58 and to renew the Permit of the Petitioners for a period not less than three years~~x~~ and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the Permit of the Petitioners for very short durations as stated in paragraph 7 hereof. The aforesaid conduct of the Respondents and of the officers of the Respondents acting under the directions of ~~the~~ Respondents has been contrary to the provisions of the said Act.

9. For about past 3 years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the State of B_ombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act Act XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No. 1780/5 dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying motor buses for carrying passengers to the said Corporation.

10. At all times material to this Petition the 2nd Respondent has been the Provincial Head of the Officers

administering

administering the said Act and has also held the position of the Provincial head of the Transport business carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the 1st Respondent calculated to oust and supplant the entire business of the Motor Transport by private individuals the 2nd Respondent and the officers subordinate to him as well as the Provincial Transport Authority and the Respondent No.3 have acted in accordance with the directions of the 1st Respondents given to them and have not used any independent judgment of their own in deciding matters relating to the Permit of the Petitioners and the renewal thereof since 6-1-1949 and their decisions have been biased and prejudiced. The Respondents 1 and 2 have in the above matters from time to time given directions to the Officers and to Respondent No.3 entrusted with the administration of the said act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the Petitioners and have intentionally and deliberately violated and circumvented the provisions of the said Act as well as of the Road Transport Corporation Act relating to the prescribed amount of the compensation payable to the Petitioners in respect of the taking over of their business by passing such orders as will reduce to minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its goodwill under the said Act as well as the Road Transport Corporation Act.

11. At the instance of the 1st and 2nd Respondents, the 3rd Respondents addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and the letters contained in Exhibit "C" and also renewed their permits on a Temporary basis and between 1-12-1949 to the date of this Petition, the renewals were all made for the same periods as the renewals of the

Petitioners' permit. The obvious object of the said letter dated 20-9-1949 and the said letters contained in Exhibit "C" and similar letters addressed to others was that as soon as the buses of the State Transport or of the said Corporation were ready to start **working** in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd Respondents would cancel the subsisting permits of the private operators and would refuse to renew any permit which had expired. The Petitioners state that the temporary renewals of the permits of the Petitioners and others in the area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article 14 of the Constitution of India the Petitioners are entitled to a treatment before the law and equal with the Transport business protection of the law ~~and 2nd Respondents and with the~~ carried on by the ~~1st~~ 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19 (g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the permit of the Petitioners the Petitioners have had no fair trial and the Petitioners apprehend that they have no chance of a fair trial of their case at the hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19 (g) of the Constitution are violated by the Respondents and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and

after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to violate the fundamental rights of the Petitioners.

14. The Petitioners state that with the object of totally ousting the Petitioners from their business and in its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the Petitioners of their business and any right to claim compensation for goodwill, loss of business and capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the permit of the Petitioners and have threatened to cancel the same from 1-3-1950 and misused the powers under and provisions of the said Act.

15. The Petitioners submit that the functions to be discharged by the 2nd Respondent and the officers and bodies subordinate to him in the matter of renewal of Stage Carriage Permit of the Petitioners and of taking over and ascertaining compensation for the business of the Petitioners are judicial functions and that the 2nd Respondent and the officers subordinate to him including the Provincial Transport Authority, Bombay and Respondent No.3, have acted in accordance with the directions of the 1st and 2nd Respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

15 (a). The Petitioners submit that it is in the interest of justice that this Hon'ble Court should issue a Writ of prohibition or make other suitable order against the

respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No. 4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of their existing business of transport by Stage Carriages.

16. The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the Writ of Certiorari calling for the records of proceedings relating to the permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

17. The Petitioners submit that it is in the interest of justice that the Respondents Nos. 3 be ordered by an order and mandatory injunction of this Hon'ble Court to renew the Permit for Stage Carriages of the Petitioners for a period not less than three years.

18. The Petitioners submit that it is necessary in the interest of justice that the Respondents be prohibited by a Writ of Prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said Act to cancel the Stage Carriages Permit of the Petitioners and from passing any orders other than the order renewing the Stage Carriages Permit of the Petitioners and from doing any act calculated to prejudicially affect the business of Transport by Stage Carriages carried on by the Petitioners.

19. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its power of superintendence call for the records of proceedings relating to the Stage Carriages

Permit of the Petitioners and pass such orders as justice of the case may require.

20. The Petitioner say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them obtain redress

21. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court ~~from doing~~ passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners.

22. The orders passed by and directions given by the Respondents Nos. 1 and 2 were all passed and given in the City of Bombay, and the orders passed by the Respondents 3 and the officers and bodies subordinate to the Respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this Petition.

23. The Petitioners, therefore, pray:-

(a) That this Hon'ble Court will be pleased to issue a Writ of Prohibition or other suitable order against the Respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of the existing business of transport by Stage Carriages.

(b) That this Hon'ble Court may be pleased to issue

Writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority, Belgaum relating to the Permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary.

- (c) That this Hon'ble Court may be pleased to issue a mandatory injunction against the Respondents No. 1 and 2 and order them to renew the permits for Stage Carriages of the Petitioners for a period not less than three years.
- (d) That in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for the records of proceedings relating to the Stage Carriages Permit of the Petitioners and pass such orders as justice of the case may require;
- (e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the Permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners, and may further be ordered to renew the Permit.
- (f) That such order as to this Hon'ble Court may seem fit be made as regards the Costs of the Petitioner of this Petition;

and

- (g) That the Petitioners may have such further and other reliefs as the nature of the case may require.
- sual affirmation clause follows)

In The High Court of Judicature at Bombay.

Ordinary and Inherent Jurisdiction.

Civil Application No.329 of 1950.

In the matter of Motor Vehicles Act, 1939 Motor
Vehicles (Bombay Amendment) Act, 1947

and

The Road Transport Corporation Act, 1948.
Company Ltd. an)

The Chavan Motor Transport ~~Corporation Act, 1948~~

incorporated Company registered under the)

Indian Companies Act, 1913 having its regis-)

tered Office at Belgaum in the State of)

Bombay.) Petitioners

Versus

1. The State of Bombay.)

2. The Provincial Transport Officer, of the)

Government of Bombay having his office at)

Churchgate in Bombay.)

3. The Regional Transport Authority,)

Karnatak Region, Belgaum being a body)

constituted under the Motor Vehicles Act,)

1939.) Respondents.

To,

The Hon'ble Chief Justice and the other Judges of
this Hon'ble Court.

The humble petition of the Petitioners above named
Humbly sheweth:-

1. The petitioners are a company registered under the Indian Companies Act, having their office at Belgaum. Respondent No.2 is the officer of Respondent No.1 in charge of the administration of the Motor Vehicles Act and Respondents No.3 is the authority constituted under the said Act.
2. Prior to 1943 several persons carried on business of

of plying motor buses for Carriage of passengers on different routes in the Southern part of the State of Bombay. Acting under the directions given from time to time by the Authorities administering the Motor Vehicles Act, 1939(hereinafter referred to as the said Act) the said persons in the year 1943 promoted the Petitioners' company with themselves as members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The Petitioners took over the said businesses and have been carrying on the business of Motor Transport of different routes in the Southern part of the State of Bombay. All the members of the Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage permit No.P.St. S.186(1-11) by the authorities under the said Act of a duration contemplated by ~~Section~~ 58 of the Act and the said Permit was renewed to the petitioners under Section 58 Sub-clause 2 and the duration of the last such renewed permit expired on 6th January 1950.

4. As required under law, on the 4th November 1949 the petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for renewal of their aforesaid permit expiring on 6th January 1950. A copy of the said application is annexed hereto and marked Exhibit "A". The said Officer acting under the orders of the respondents did not proceed with the said application in accordance with the provisions of the Sections 57 and 58 of the said Act but renewed the permit for Stage Carriages from time to time for very short durations from 7-1-1950 to 31-1-1950 and from 1-2-1950 to 28-2-1950, and from 1-3-1950 to 31-3-1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date

date forwarded to the petitioners a copy of the Government Notification Home Department No.4714/5 dated 31-8-1949 which declared the intention of the Government to cancel the permits specified in the schedule annexed to that Notification which included the permit of the petitioners and proceeded to state that that officer was directed to inform the petitioners that although the validity of the Petitioners' Temporary permit extended beyond 30-11-1949 the same should be treated as valid upto 30-11-1949. Hereto annexed and marked Exhibit "B" is a copy of the said letter and the relevant extracts of the said Notification No.4714/5.

6. The Government Notification No.4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub-section (1) of Section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of Sub-Section (1) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and the Regional Transport Authority, Belgaum. The petitioners state that the Petitioners and several other owners of Transport business in the Karnatak Region were vitally affected by the powers exercised by the Government and by the Notification aforesaid and yet, no representative of the Petitioners was heard as stated in the said Notification and that the Petitioners on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary, Regional Transport Authority, Belgaum by his letter dated 1-2-1950 informed the petitioners that the State Transport may take over the services operated by the

(4)

by the petitioners on the routes specified in the said letter or any portions thereof from 1-3-1950. Hereto annexed and marked Exhibit "C" is a copy of the aforesaid letter.

8. The petitioners state that the action of the Respondent No-1 in issuing the said Notification No.4714/5 has been mala fide, in as much as Respondent No.1 or any other Respondents have not at all heard the representatives of the interests affected by the said Notification. The petitioners submit that the said Notification is illegal, void and inoperative. The petitioners further submit that the conduct of the officers of the Government including the Secretary, Regional Transport Authority, Belgaum and of the said Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the directions given to them from time to time by Respondent No.1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said officers and authority have refused to consider the application of the petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in Sections 57 and 58 and to renew the permit of the petitioners for a period not less than three years, and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the permit of the petitioners for very short durations as stated in para 4 thereof. The aforesaid conduct of the respondents and of the officers of the Respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past three years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the state

State of Bombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act, Act XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No.1780/A dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this petition the 2nd respondent has been the Provincial Head of the officers administering the said Act and has also held the position of the Provincial Head of the Transport business carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the 1st respondent calculated to oust and supplant the entire business of the motor Transport by private individuals the 2nd respondent and the officers subordinate to him as well as the Provincial Transport Authority Bombay and Respondent No.3 have acted in accordance with the directions of the 1st respondent given to them and have not used any independent judgment of their own in deciding matters relating to the permit of the petitioners and the renewal thereof since 6th January 1950 and their decisions have been biased and prejudiced. The Respondents No.1 and 2 have in the above matters from time to time given directions to the Officers and to Respondant No.3 entrusted with the Administration of the said Act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the Petitioners and have intentionally and deliberately violated and circumvented the provisions of the said Act as well as of the Road Transport Corporation Act relating to the prescribed amount of compensation payable to the petitioners in respect of the taking over of their business by passing such orders as will reduce to a minimum or to nothing

nothing the amount of compensation payable to the petitioners in respect of their business and its good will under the said Act as well as the Road Transport Corporation Act.

11. That at the instance of the 1st and the 2nd respondents the 3rd respondent addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and also renewed their permits on a temporary basis between 7-1-1950 to the date of this petition, the renewals were all made for the same periods as the renewals of the petitioners' permit. The obvious object of the said letter dated 20-9-1949 and similar letters addressed to others was that as soon as the buses of the State Transport or the said corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd respondents would cancel the subsisting permits of the private operators and would refuse to renew any permits ^{which} ~~that~~ had expired. The petitioners state that the temporary renewal of the permits of the petitioners and others in the area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article 14 of the Constitution of India the petitioners are entitled to a treatment before the law and protection of the law equal with the Transport business carried on by the 1st and 2nd respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19(g) of the Constitution of India the petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened ^e ~~in~~ in the proceedings relating to the renewal of the permit of the Petitioners, the petitioners have had no fair trial and the Petitioners apprehend.....

(7)

apprehend that they have no chance of a fair trial of their case at the hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19(g) of the Constitution are violated by the Respondents and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to ~~violate~~ violate the fundamental rights of the petitioners.

14. The petitioners state that with the object of totally ousting the Petitioners from their business and in its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the Petitioners of their business and any right to claim compensation for goodwill, loss of business and the capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the Permit of the petitioners and have threatened to cancel the same from 1-3-1950, and misused the powers under the provisions of the ~~said Act.~~ said Act.

15. The petitioners submit that the functions to be discharged by the 2nd respondent and the officers and bodies subordinate to him in the matter of renewal of State carriage Permit of the petitioners and of taking over and ascertaining compensation for the business of the Petitioners are judicial functions and that the 2nd respondent and the officers subordinate to him including the Provincial Transport Authority, Bombay and Regional Transport Authority, Respondent No.3 have acted in accordance with the directions of the 1st.

and 2nd respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by part III of the Constitution of India.

16. The petitioners submit that it is in the interests of justice that this Hon'ble Court should issue a Writ of prohibition or make other suitable order against the respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No. 4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the petitioners from or depriving them of their existing business of transport by stage carriages.

17. The petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the writ of certiorari calling for the records of proceedings relating to the permit for stage carriages of the petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

18. The petitioners submit that it is in the interest of justice that the respondent No. 3 be ordered by an order and a mandatory injunction of this Hon'ble Court to renew the permit for Stage carriage of the ~~petitioners~~ petitioners for a period not less than three years.

19. The petitioners submit that it is necessary in the interest of justice that the Respondents be prohibited by a Writ of prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said Carriage Act to cancel the Stage/permit of the petitioners and from passing any orders other than the order renewing the stage

(9)

Stage carriage permit of the petitioners and from doing any act calculated to prejudicially affect the business of transport by stage carriages carried on by the petitioners.

20. The petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its powers of superintendence call for the records of proceedings relating to the Stage Carriage permit of the Petitioners and pass such orders as justice of the case may require.

21. The petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for here and that the remedy applied for by them will be complete. The petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

22. Under the circumstances aforesaid the petitioners state that pending the hearing and final disposal of this petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by Stage carriages carried on by the petitioners.

23. The orders passed by and directions given by the respondents Nos. 1 and 2 were all passed and given in the City of Bombay, the orders passed by Respondent No.3 and the Officers and bodies subordinate to the Respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this petition.

24. The Petitioners, therefore, pray:-

- (a) That this Hon'ble Court will be pleased to issue a writ of prohibition or other suitable order against the respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-7-1949 and

and also not to do any act or pass any orders which will have the effect of ousting the petitioners from or depriving them of the existing business of transport by stage carriages.

(b) That this Hon'ble Court may be pleased to issue a writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority Belgaum relating to the Permit for Stage carriages of the Petitioners before this Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary;

(c) That this Hon'ble Court will be pleased to issue a mandatory injunction against the Respondent No.3 and order them to renew the permits for stage carriage of the petitioners for a period not less than three years.

(d) That in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for records of proceedings relating to the Stage Carriage permit of the Petitioners and pass such orders as justice of the case may require;

(e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the Respondents may be ~~extrajudicially~~ restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage carriages carried on by the petitioners and may further be ordered to renew the permit;

(f) That such order as to this Hon'ble Court may seem fit be made as regards the costs of the petitioners

petitioners of this Petition;

and

(g) That the petitioners may have such further and other relief as the nature of the case may require.

Petition drawn by)
Messrs. Gokhale Kale &)
Co., Attorneys-at-Law)

I, Yellappa Guruappa Chavan of Belgaum now temporarily residing at Girgaum a Chairman of the petitioners company able to depose to the facts of this petition do solemnly declare and state that what is stated in paragraphs 1, 2, 3, 4, 5, parts of 6 and 7 of the foregoing petition is true to my knowledge and what is stated in paragraphs parts of 6 & 7; paras 8- 22 is stated on information and belief and I believe the same to be true.

Solemnly declared at Bombay)

aforsaid this 23 day of)

February, 1950.)

Sd/.....

Sd/.....

Petitioners' attorneys.

5 copies
H-4
m/3

37

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND INHERENT JURISDICTION

C.A. No. 330 of 1950.

In the matter of Motor Vehicles Act,
1939 Motor Vehicles (Bombay Amendment)
Act, 1947;

and

The Road Transport Corporation
Act, 1948.

The Karnatak Express Motor Transport
Ltd. an incorporated Company registered
under the Indian Companies Act, 1913
having its registered office at Belgaum
in the State of Bombay. ) Petitioners.

v e r s u s

1. The State of Bombay
2. The Provincial Transport Officer
of the Government of Bombay having
his office at Churchgate in Bombay;
and
3. The Regional Transport Authority,
Karnatak Region, Belgaum, being a
body constituted under the Motor
Vehicles Act, 1939. ) Respondents.

To,

The Hon'ble Chief Justice and the other Judges
of this Hon'ble Court.

The humble Petition of the Petitioners abovenamed

Humbly Sheweth :-

1. The Petitioners are a Company registered under the

Indian Companies Act, having their office at Belgaum, Respondent No. 2 is the officer of Respondents No. 1, in charge of the administration of the Motor Vehicles Act and Respondents No. 3 is the authority constituted under the said Act.

2. Prior to 1943 several persons carried on business of plying motor buses for Carriage of passengers on different routes in the Southern part of the State of Bombay. Acting under the directions given from time to time by the authorities administering the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act) the said persons in the year 1943 promoted the Petitioners' Company with themselves as members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The Petitioners took over the said businesses and have been carrying on the business of Motor Transport on different routes in the Southern part of the State of Bombay. All the members of the Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage Permit No. P.St. S. 177(1-26) by the authorities under the said Act of a duration contemplated by Section 58 of the Act and the said Permit was renewed to the Petitioners under Section 58 Sub-clause 2 and the duration of the last such renewed permit expired on 6th January 1947.

4. As required under law, on 4th November 1946 the Petitioners applied to the Regional Transport Authority, Karnatak Region, Belgaum for renewal of their aforesaid permit expiring on 6th January 1947. The said authority acting under the orders of the Respondents did not proceed with the said application in accordance with the provisions of the Sections 57 and 58 of the said Act but by their letter No. 201/4-B/KR of 46 dated 8-1-1947 informed the Petitioners that their permit would be renewed on temporary basis.

Hereto annexed and collectively marked Exhibit "A" are the copies of the said application and the letter. The said Authority accordingly renewed the permit for Stage Carriages from time to time for a duration only of a period of four months at a time upto 6-1-1950 and thereafter from 7-1-1950 to 31-1-1950 and from 1-2-1950 to 28-2-1950, and from 1-3-1950 to 31-3-1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date forwarded to the Petitioners a copy of the Government Notification Home Department No. 4714/5 dated 31-3-1949 which declared the intention of the Government to cancel the permits specified in the Schedule annexed to that Notification which included the permit of the Petitioners and proceeded to state that that officer was directed to inform the Petitioners that although the validity of the Petitioners' Temporary Permit extended beyond 30-11-1949 the same should be treated as valid upto 30-11-1949.

6. The Government Notification No. 4714/5 aforesaid was purported to be issued in exercise of the powers conferred by Sub-section (1) of Section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of Sub-Section (I) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and the Regional Transport Authority, Belgaum. The Petitioners state that the Petitioners and several other owners of Transport business in the Karnatak Region were vitally affected by the powers exercised by the Government and by the Notification aforesaid and yet, no representative of the Petitioners was heard as stated in the said Notification and that the Petitioners on

on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary, Regional Transport Authority, Belgaum by his letter dated 1-2-1950 informed the Petitioners that the State Transport may take over the services operated by the Petitioners on the routes specified in the said letter or any portions thereof from 1-3-1950. Hereto annexed and marked Exhibit "B" is a copy of the aforesaid letter.

Ex. "B"

8. The Petitioners state that the action of the Respondant No.1 in issuing the said Notification No.4714/5 has been mala-fide inasmuch as Respondent No.1 or any other respondents have not at all heard the representatives of the interests affected by the said Notification. The Petitioners submit that the said Notification is illegal, void and inoperative. The Petitioners further submit that the conduct of the officers of the Government including the Secretary, Regional Transport Authority, Belgaum and of the said Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the directions given to them from time to time by Respondent No. 1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said officer and authority have refused to consider the application of the Petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in Sections 57 and 58 and to renew the permit of the Petitioners for a period not less than three years, and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the Permit of the Petitioners for very short durations as stated in para 4 hereof. The aforesaid

-5-

conduct of the Respondents and of the officers of the Respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past three years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act, Act XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No.1780/5 dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this Petition the 2nd Respondent has been the Provincial Head of the Officers administering the said Act and has also held the position of the Provincial Head of the Transport business carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the 1st Respondent calculated to oust and supplant the entire business off the Motor Transport by private individuals the 2nd Respondent and the officers subordinate to him as well as the Provincial Transport Authority Bombay and Respondent No.3 have acted in accordance with the directions of the 1st Respondent given to them and have not used any independent judgment of their own in deciding matters relating to the Permit of the Petitioners and the renewal thereof since 6th January 1947 and their decisions have been biased and prejudiced.

The Respondents Nos.1 and 2 have in the above matters from time to time given directions to the Officers and to Respondent No.3 entrusted with the administration of the said Act which have resulted in violation of the provisions

of the said Act as to grant of renewal of the Permit to the Petitioners and have intentionally and deliberately violated and circumvented the provisions of the said Act as well as of the Road Transport Corporation Act relating to the prescribed amount of compensation payable to the Petitioners in respect of the taking over of their business by passing such orders as will reduce to a minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its goodwill under the said Act as well as the Road Transport Corporation Act.

11. That at the instance of the 1st and the 2nd Respondents, the 3rd Respondent addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and also renewed their permits on a temporary basis between 7-1-1947 to the date of this Petition, the renewals were all made for the same periods as the renewals of the Petitioners' permit. The obvious object of the said letter dated 20-9-1949 and similar letters addressed to others was that as soon as the buses of the State Transport or the said Corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd Respondents would cancel the subsisting permits of the private operators and would refuse to renew any permit which had expired. The Petitioners state that the temporary renewals of the Permits of the Petitioners and others in the area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article 14 of the Constitution of India the Petitioners are entitled to a treatment before the law and protection of the law equal with the Transport business carried on by the 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent

is the Head. Under Article 19(g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the Permits of the Petitioners, the Petitioners have had no fair trial and the Petitioners apprehend that they have no chance of a fair trial of their case at the hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19(g) of the Constitution are violated by the Respondents and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to violate the fundamental rights of the Petitioners.

14. The Petitioners state that with the object of totally ousting the Petitioners from their business and in its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the Petitioners of their business and any right to claim compensation for goodwill, loss of business and the capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the permit of the Petitioners and have threatened to cancel the same from 1-4-1950, and misused the powers under the provisions of the said Act.

15. The Petitioners submit that the functions to be discharged by the 2nd Respondent and the officers and bodies subordinate to him in the matter of renewal of stage

Stage Carriage Permit of the Petitioners and of taking over and ascertaining compensation for the business of the Petitioners are judicial functions and that the 2nd Respondent and the ~~affix~~ officers subordinate to him including the Provincial Transport Authority, Bombay and Regional Transport Authority, Respondent No. 3 have acted in accordance with the directions of the 1st and 2nd Respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

15(a). The Petitioners submit that it is in the interest of justice that this Hon'ble Court should issue a Writ of Prohibition or make other suitable order against the Respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of their existing business of Transport by Stage Carriages.

16. The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the Writ of Certiorari calling for the records of proceedings relating to the Permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

17. The Petitioners submit that it is in the interest of justice that the Respondent No.3 be ordered by an order and a mandatory injunction of this Hon'ble Court to renew the permit for Stage Carriage of the Petitioners for a period not less than three years.

18. The Petitioners submit that it is necessary in the interest of justice that the Respondents be prohibited by a Writ of Prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said

Act to cancel the Stage Carriage Permit of the Petitioners and from passing any orders other than the order renewing the Stage Carriage permit of the Petitioners and from doing any act calculated to prejudicially affect the business of transport by Stage Carriages carried on by the Petitioners.

19. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its powers of superintendence call for the records of proceedings relating to the Stage Carriage Permit of the Petitioners and pass such orders as justice of the case may require.

20. The Petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

21. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners.

22. The orders passed by and directions given by the Respondents Nos.1 and 2 were all passed and given in the City of Bombay, the orders passed by Respondent No.3 and the officers and bodies subordinate to the Respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this Petition.

23. The Petitioners, therefore, pray:-
(a) That this Hon'ble Court may be pleased to issue a Writ of Prohibition or other suitable

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order against the Respondents ordering them or any one of them to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-8-1949 and also not to do any act or pass any orders which will have the effect of ousting the Petitioners from or depriving them of the existing business of transport by State Carriages.

(b) That this Hon'ble Court may be pleased to issue a Writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority, Belgaum relating to the permit for Stage Carriages of the Petitioners before this Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary;

(c) That this Hon'ble Court will be pleased to issue a mandamus injunction against the Respondent No.3 and order them to renew the permits for Stage Carriage of the Petitioners for a period for less than three years;

(d) ~~That this Hon'ble Court will~~

(d) That in the alternative in exercise of the power of Superintendence this Hon'ble Court may be pleased to call for records of proceedings relating to the Stage Carriage Permit of the Petitioners and pass such orders as justice of the case may require.

(e) This Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from

passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners and may further be ordered to renew the Permit.

(f)

- (f) That such order as to this Hon'ble Court may seem fit be made as regards the costs of the Petitioners of this Petition;

and

- (g) That the Petitioners may have such further and other relief as the nature of the case may require..

(Usual affirmation clause follows)

Petition Drawn by :-

Messrs. Gokhale Kale & Co.

Attorneys-at-Law.

RJS/-
mhp

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delivered
Ch. H. H.
Motor Transport

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
AND
ITS GENERAL AND INHERENT JURISDICTION.
Civil Application No. 503 of 1950.

In the matter of the Motor --
Vehicles Act, 1939,
and

In the matter of the Motor --
Vehicles (Bombay Amendment Act,
1947,

and

In the matter of the Road --
Transport Corporation Act, 1948,

and

In the matter of the Specific
Relief Act 1877.

The North Deccan Transport Ltd. an incorporated)
company registered under the Indian Companies)
Act, 1913, having its registered office at --)
Bombay- Agra Road, Nasik, Nasik District in the)
State of Bombay.....) Petitioners.

VS

1. The State of Bombay, having its office in)
the Secretariat, Bombay.....)
2. The Regional Transport Authority North --)
Deccan Region, Nasik, being a body constitu-)
ted under the Motor Vehicles, Act, 1939,)
having its office at Trimbak Road Nasik,)
Nasik district, in the State of Bombay.....)
3. The Provincial Transport Authority, Bombay,)
being a body constituted under the Motor)
Vehicles Act, 1939, having its office at)
Industrial Assurance Building, Churchgate,)
Bombay in the State of Bombay, and)
4. The Bombay State Road Transport Corporation)

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being a corporation appointed by the --)
Government of Bombay under the Road Trans-
port Corporations Act, 1948, having its)
office at 81, Lovegrove Road, Worli, Bombay.
in the State of Bombay.....).....Respondents.

To,

The Honourable the Chief Justice and other the Judges
of this Honourable Court.

The humble petition of the Petitioners abovenamed.

SHEWETH:-

1. The Petitioners are a company registered under the Indian Companies Act, and have their registered office at Bombay -Agra Road, Nasik.
2. Respondents Nos. 2 and 3 are Authorities constituted under the Motor Vehicles Act 1939.
3. On 7th June, 1941, a five year permit for Stage Carriage was granted to the Petitioners by the 2nd Respondent in Form P. St. 5 in respect of the following routs viz:
 1. Nasik to Nasik Road,
 2. Nasik to Bhagur
 3. Nasik to Sinnar and
 4. Nasik to Kalyan.

The said permit being permit No. 21 was issued to the Petitioners for the operation of a bus -passenger service on the above mentioned routes, and the same expired on 26th August 1946.

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4. An application in the prescribed form was made by the Petitioners to the 2nd Respondent for a renewal of the said permit. The said application for renewal was made within the prescribed time. Under instructions from the 1st Respondent, the 2nd Respondent did not issue a renewal of the permit, which had been applied for by the Petitioners as aforesaid but granted only temporary permits to the Petitioners from time to time for Stage Carriage on the aforesaid routes. In the beginningⁿ the said temporary permits were granted for a period of four months at a time but later on they were granted for a period of one month and were renewed from month to month. The last of the said temporary permits was issued by the 2nd Respondent to the Petitioners on 1st March, 1950, and the same will expire on 31st March 1950. Since the said application of the Petitioners for renewal of the permit was not disposed of by the 2nd Respondent and the 2nd Respondent granted only a temporary permit to the Petitioners, the Petitioners preferred an appeal dated 19th September 1946, to the 3rd Respondent. A copy of the memo of appeal dated 19th September 1946, is hereto annexed and marked "A".

5. By his letter dated 10th April 1947 the 3rd Respondent intimated to the Petitioners that the issue of a temporary permit to the Petitioners was not illegal and that under section 62 (d) of the Motor Vehicles Act, 1939 the 2nd Respondent was authorised to grant a temporary permit, pending decision on an application for the grant or renewal of a permit, and that therefore the Petitioners appeal would not be heard by the Appellate Committee of the 3rd Respondent as there were no grounds for the appeal. A copy of the said letter is hereto annexed and marked "B".

6. The Petitioners say that they never acquiesced in the grant of temporary permits to them. Their application was for renewal of their permit and it was only upon the representation^{ns} of the 2nd and 3rd Respondents to the effect that the temporary permits were granted pending the disposal of the Petitioners

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application for renewal of the permit that the Petitioners accepted the temporary permits without prejudice to their right to get a renewal of their permit. The Petitioners accepted the temporary permits in the basis and in the belief induced by the said representations of the 2nd and 3rd Respondents that the Petitioners application for renewal of permit was alive and -- pending .

7. On 23rd March 1947, the Motor Vehicles (Bombay Amendment) Act, 1947, being Act VII of 1947 (hereinafter called "the Bombay Amendment Act, 1947") was promulgated. By the said Bombay Amendment Act 1947, clauses (iii) and (iv) were added to section 43(1) The Motor Vehicles Act, 1939 and two new sections being section 48A and section 58A were inserted in the said Motor Vehicles Act 1939. The said additions to section 43(1) and the said new -- sections 48A and 58A run as follows:-

"(iii) notwithstanding anything contained in section 53 or section 60 cancel any permit granted under the Act in respect of a transport vehicle or class of such - permits either generally or in any area specified in the notification:

Provided that no such notification shall be issued before the expiry of a period of three months from the date of a notification declaring its intention to -- do so:

Provided further that when any such permit has been cancelled, the permit-holder shall be entitled to such compensation as may be provided in the rules; or

(iv) declare that it will engage in the business of road transport service either generally or in any area specified in the notification."

x x x x

"48A. Issue of stage carriage permit to Government of local authorities.-Notwithstanding anything contained in section 47 and 48, a Regional Transport Authority

on

on the Provincial Transport Authority shall issue the stage carriage permit applied for by or on behalf of the Provincial Government or a local authority with the concurrence of the Provincial Government ".

x

x

x

x

"58A. Grant of permit to local authority. ~~Notwithstanding~~ anything hereinbefore contained, the Provincial Government may by order direct any Regional Transport authority or the Provincial Transport Authority to grant a stage carriage permit to the Provincial Government or any local authority specified in the order."

8. The Road Transport Corporation Act, XXXII of 1948, came into force on 16th April, 1948 Section 3 of the said Act runs as follows

"3. (1) Notwithstanding anything contained the Motor

Power of Provincial Governments to appoint Corporations.

Vehicles Act, 1939, the Indian Companies Act, 1913, or any

other law a Provincial Government, having regard to ;

(a) the advantages offered to the public, trade and industry by the development of road transport;

(b) the desirability of co-ordinating any form of road transport with any other form of transport;

(c) the desirability of extending and improving the facilities for road transport in any area in such manner as to provide most efficiently and as cheaply as possible for the needs thereof and of preventing uneconomic competition among any forms of road transport, may appoint, by notification issued in this behalf , a Road Transport Corporation for the whole or any part of the Province.

(2) In such Corporation-

(a) provision shall be made and continue to be made by or under the relevant provincial law for the reservation and allotment to the Central Government, as represented by its Railways, of such percentage of the share capital

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capital of the Corporation, if any, as may be agreed to by the Central and the Provincial Governments;

(b) provision shall be made and continue to be made for adequate representation of the Central Government and of the Provincial Government concerned on the Corporation;

and

(c) Provision shall be made for the payment of -- due compensation in accordance with rules made under section 7 to the owners of any road transport -- services whose services are taken over by the-- Corporation:

Provided that where no agreement is arrived at or a dispute arises in respect of any matter referred to in this sub-section between the Central Government and a Provincial Government such dispute will be referred to an arbitral tribunal consisting of -- one nominee of the Central Government, one nominee of the Provincial Government and one nominee of the Chief Justice of the Federal Court who shall be -- Chairman of the tribunal and the findings of the tribunal shall be final and binding."

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9. By a Notification bearing No. 1780/5 dated 16th November 1949, the 1st Respondent appointed a Road Transport Corporation being the 4th Respondent Corporation herein. The Board of the 4th Respondent Corporation under the said Notification is invested with the power inter alia to operate road transport services in the State of Bombay for the transport of passengers and goods. The Petitioners crave leave to refer to the provisions of the said Notification incorporating the 4th Respondent Corporation.

10. On 22nd July, 1949 ~~from the 2nd Respondent headed~~ the Petitioners received a letter dated 8th July 1949, from the 2nd Respondent headed "Nationalization of Passenger Bus Service in Nasik Division and enclosing copies of Government Notification dated 1st and 30th June 1949 to the effect that the 1st Respondent was pleased to declare its intention to cancel the permits granted in respect of Stage Carriage inter alia to the Petitioners on the routes therein specified. A copy of the said letter is hereto annexed and marked "C".

11. By his letter dated 14th February 1950 the Divisional Controller, State Transport (Bombay), Nasik Division, requested the Petitioners to submit a list of their vehicles, tools and machinery, which the petitioners would be in a position to sell to the State Transport when the services would be taken up by the State Transport. With their letter dated 25th February, 1950 the Petitioners submitted the list as requested without prejudice to any of their rights and contentions. Copies of the said letters are hereto annexed and marked "D" (Colly).

12. By their letter dated 11th March, 1950, the Petitioners once again applied for grant or renewal of the permit and called upon the 2nd Respondent to dispose of the Petitioners said application for grant or renewal of the said permit, or in the alternative to dispose of the Petitioners said prior application

for

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for renewal of the permit, which had been made in 1946, but which was still pending. Since the Petitioners temporary permit is to expire on 31st March, 1950, the Petitioners requested the 2nd Respondent to dispose of their application for grant or renewal of the permit within a week of the receipt of the Petitioners said letter dated 11th March 1950. The Petitioners sent a copy of the said letter to the 3rd Respondent. By their letters in reply the 2nd and 3rd Respondents stated that the Petitioners said application would be considered in due course and the result would be communicated to the Petitioners when the same was decided. Copies of the Petitioners said letters and of the said replies are hereto annexed and marked "E" (Copy) .

13. By a notification published under Regional Transport Officers No. 2607/N D-4-14 of 1950 dated 10th March, 1950 it has been notified to the public that the Provincial Motor Transport Controller of the 3rd Respondent had applied for a permit in respect of the routes, Nasik to Nasik Road, Nasik to Bhagur and Nasik to Sinnar and two other routes with which the Petitioners are not concerned. A copy of the said Notification is hereto annexed and marked "F" . By a further Notification No. 2823/ND -12 of 15th March 1950 issued by the 2nd Respondent it has been notified to the public that an application for temporary permit for stage carriage on inter alia three of the routes operated by the Petitioners had been received from the Provincial Transport Controller of the 3rd Respondent and that the same would be considered at a meeting of the 2nd Respondent on 28th March 1950 and that objections or suggestions in connection with the same should be received by the 2nd Respondent on or before the 27th March 1950. Hereto annexed and marked 'G' is a copy of the said Notification. The 3rd Respondent is an authority superior to the 2nd Respondent and the 3rd Respondent's Application

-on for

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for permits before the 2nd Respondent is improper and should not be entertained at all. The Petitioners say that the 3rd Respondent has applied for the said permits on behalf and for the benefit of the 4th Respondent Corporation. The Petitioners say that except the Petitioners and the 3rd and/or the 4th Respondents Corporation there is no other applicant for a Stage carriage permit in respect of the said routes. The Petitioners say that the circumstances of the case are such that grant of permit to the 3rd Respondent and/or the 4th Respondent Corporation would mean and result in depriving the Petitioners of their permit.

14. The Petitioners say that Respondent 1 to 3 have already decided finally to refuse and have in fact refused to grant any permit to the Petitioners in respect of the said routes after the 31st of March, 1950, and have decided finally to grant the permit to the 4th Respondent Corporation in respect of the said routes. The Respondents have already made preparations to acquire and run the Stage Carriage Services at present run by the Petitioners on the said routes. The Petitioners have complied with all the terms and conditions of the permit and there is not a single circumstance to justify the refusal to renew the permit in their favour. The 2nd Respondent has failed and neglected or refused to exercise his statutory powers, discretion, judgment and jurisdiction under the Motor Vehicles Act, 1939 and those powers, discretion, judgment and jurisdiction have been wrongfully usurped and exercised by the 1st Respondent in contravention of the provisions of the Motor Vehicles Act 1939. In any event, the 2nd Respondent has acted at all material times entirely under the dictation and orders of the 1st Respondent. the discretion and judgment of the 2nd Respondent being completely fettered and dominated by the 1st Respondent. The 2nd and 3rd Respondents have not applied their minds at all to the merits of the Petitioners application or to the question of deciding it in accordance with the provisions of the Motor Vehicles Act, 1939. In the alternative, the Petitioners say that

that the 2nd Respondent has exercised his powers and jurisdiction malafide and for a collateral purpose and ulterior object viz. to favour the 1st Respondent and the 4th Respondent Corporation and to give effect to the 1st Respondent's scheme of nationalisation of passenger bus service. The Petitioners will rely upon the scheme of nationalisation put forth by the 1st Respondent in this behalf when produced.

15. The Petitioners further contend that the said additions to section 43 and the said sections 48 A and 58A inserted in the Motor Vehicles Act, 1939, by the said Bombay Amendment Act, 1947 are ultra vires the Motor Vehicles Act 1939, (which is a Central Act) and the Government of India Act 1935 and are also ultra vires articles 19 and 31 of the Constitution of India.

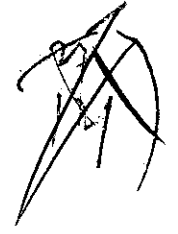
16. The Petitioners say that the 2nd Respondent's refusal to grant a permit to the Petitioners and his decision to grant it instead to the 3rd and/or the 4th Respondent amounts to directly depriving the Petitioners of their property, viz. business, without authority of law as is clear from the circumstances hereinabove stated, and that in effect and/or in fact the 1st Respondent and the 4th Respondent Corporation have decided to acquire or take possession of the business, property and commercial undertaking of the Petitioners without payment of compensation in violation of article 31st of the Constitution of India. The Petitioners say that -at the said Notification dated 16th November 1949, by which the 4th Respondent Corporation is appointed provides for compensation only in respect of wharves, garages, sheds, office buildings, depots and articles owned or possessed by any operator, but it does not provide, and the Respondents will not pay to the Petitioners, any compensation for the goodwill and the value of the permit and other proprietary rights

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rights belonging to the Petitioners. The Petitioners say that on this ground the said Notification appointing the 4th Respondent Corporation is ultra vires the said article 31 of the Constitution of India and also ultra vires the said Road Transport Corporations Act, 1948, and that the 4th Respondent Corporation has not therefore been validly appointed. The Petitioners further say that under article 19 of the Constitution of India they have the fundamental right to carry on their business which they have been carrying on so far on the said routes and that the 2nd and 3rd Respondents refusal without a valid or justifiable cause to give a permit to the Petitioners and the Respondents decision to nationalise transport and drive citizens out of their business amounts to a violation of the said fundamental right. The Petitioners further say that under section 58 of the Motor Vehicles Act, 1939, it is clearly incumbent on the 2nd Respondent to give preference to the Petitioners application for renewal of the permit over the application of the 3rd Respondents or the 4th Respondent Corporation for a permit, other conditions being equal. The Petitioners say that other conditions are equal in this case and that, if anything the Petitioners have a better case upon the merits than the 3rd Respondent or the 4th Respondent Corporation.

17. The Petitioners say that the 2nd Respondent is merely making a show of considering the Petitioners application for renewal of the permit, and has been making such a show since 1946, whereas in fact the 1st and 2nd Respondents have already finally decided not to grant and have refused to grant any permit to the Petitioners after 31st March, 1950, and have finally decided to grant the permit only to the 3rd Respondent or the 4th Respondent Corporation.

18. The Petitioners say that the act and decision of the 2nd Respondent in refusing or granting an application for a permit is having regard to the provision of the Motor Vehicles Act, 1939,

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a judicial or a quasi judicial act or decision.

19. The Petitioners submit that under the law, having particular regard to the fundamental rights laid down in articles 19 and 31 of the Constitution of India and section 58 of the Motor Vehicles Act, 1939, and the other provisions of law herein before referred to, it is clearly incumbent on the 2nd Respondent and/or the 3rd Respondent in their public character to grant to the Petitioners the permit applied for and it is further clearly incumbent upon the 2nd Respondent in its public character not to grant any permit to the 4th Respondent Corporation. The Petitioners submit that the grant of a permit to the Petitioners and the forbearance from granting a permit to the 4th Respondent Corporation are consonant to right and justice. The Petitioners submit that they have no other specific and adequate legal remedy, and that the remedy given by the order prayed for herein will be complete. The Petitioners further submit that the 2nd and 3rd Respondents refusal to grant the permit to the Petitioners is prejudicial to the Petitioners right to property and fatal to their business. The Petitioners have repeatedly and ultimately by their said letter dated 11th March 1950, made a demand for justice, but justice has been denied to them.

20. The Petitioners say that the 2nd and 3rd Respondent have acted without or in excess of their jurisdiction in refusing to grant a permit to the Petitioners and in deciding to grant a permit to the 4th Respondent Corporation. The Petitioners submit that in the circumstances aforesaid this Hon'ble Court will be pleased to issue a Writ of Certiorari against the 2nd and the 3rd Respondents calling for the records of the case before them, and
after

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after going into the question of the legality of their decision, quest and set aside the same. The Petitioners further submit, that this Hon'ble Court will be pleased to issue a Writ of Prohibition against the 2nd and 3rd Respondents prohibiting them from granting any permit to the 4th Respondent Corporation. The Petitioners further submit that this Hon'ble Court will be pleased to issue a Writ of Mandamus or an Order under section 45 of the Specific Relief Act, 1877, calling upon the 2nd Respondent and/or the 3rd Respondent to grant to the Petitioners the permit applied for and to forbear from granting any permit to the 4th Respondent Corporation.

21. In the alternative and only in the event of this Hon'ble Court holding that the 2nd Respondent or the 3rd Respondent has not refused to grant to the Petitioners the permit applied for, the Petitioners will contend that it is clearly incumbent on the 2nd and/or the 3rd Respondents to apply their minds so and dispose of the Petitioners application for the grant or renewal of the permit, and that it is further clearly incumbent on them, having regard to section 62(d) of the Motor Vehicles Act, 1939, to grant a temporary permit to the Petitioners pending decision on the Petitioners application for the grant a renewal of the permit. The Petitioners submit that the 2nd and/or the 3rd Respondents should be compelled to do so by a Writ of Mandamus or an Order under section 45 of the Specific Relief Act, 1877. The Petitioners submit that in such case the aforesaid contentions and submissions made with reference to an order to compel the 2nd and/or the 3rd Respondents to grant or renew the permit would apply mutatis mutandis.

22. The Petitioners submit that unless interim relief is granted to them and the 2nd or 3rd Respondent is ordered to grant a temporary or permanent permit to the Petitioners pending the hearing and final disposal of this petition, the Petitioners

proprietary

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proprietary rights will be irreparably damaged.

23. The Petitioners carry on the business on the said routes within and the cause of action has also arisen within the State of Bombay and all the Respondents have their offices or carry on business within the State of Bombay. Under article 226 of the Constitution of India this Hon'ble Court has jurisdiction to entertain and try this petition.

The Petitioners therefore pray:

- (a) That this Hon'ble Court be pleased to issue a Writ of Certiorary against the 2nd and 3rd Respondents calling for the records of the case relating to the Petitioners and the 3rd and/or the 4th Respondents applications for permit in respect of all or any of the said four routes, and after looking into the same and going into the question of the legality of the 2nd and/or the 3rd Respondents decision, quash and set aside their decision refusing to grant to the Petitioners the Permit applied for by them and the 2nd Respondents decision to grant a permit to the 3rd Respondent and/or the 4th Respondent Corporation,
- (b) That this Hon'ble Court be pleased to issue a Writ of Mandamus or in the alternative an Order under section 45 of the Specific Relief Act, against the 2nd and/or the 3rd Respondent directing them to grant a permit to the

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~~the~~ ~~Rx~~ the Petitioners in terms of the Petitioners application for the same and directing the 2nd Respondent not to grant any permit to the 3rd Respondent and/or the 4th Respondent Corporation in respect of all or any of the said four routes.

(c) That in the alternative to prayers (a) and (b) hereinabove, this Hon'ble Court be pleased to issue a Writ of Mandamus or an Order under section 45 of the Specific Relief Act against the 2nd and/or the 3rd Respondent directing them to apply their minds to and dispose of the Petitioners application for permit in respect of the said four routes and directing them to grant a temporary permit to the Petitioners pending decision on the Petitioners application for the grant or renewal of the permit and further directing the 2nd Respondent not to grant any permit to the 3rd Respondent and/or the 4th Respondent Corporation in respect of all or any of the said four routes.

(d) That this Hon'ble Court be pleased to issue a Writ of Prohibition against the 2nd Respondent prohibiting the 2nd Respondent from granting any permit to the 3rd Respondent or the 4th Respondent Corporation in respect of all or any of the said four routes.

(e) That pending the hearing and final disposal of this petition the 2nd or the 3rd Respondent be ordered to issue a permit to the Petitioners in respect of the said four routes.

(f)

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- (f) That the Respondents or any of them be ordered to pay to the Petitioners their costs of this petition.
- (g) That the Petitioners may be awarded such further and other reliefs as the nature of the case may require.

Petition drawn by
N.A.Palkhiwala, Esq.,
Advocate.

Petitioners Attorneys.

I, Godrej Dinshaw Homawala of Nasik, now residing temporarily at Walkeshwar Road outside the Fort of Bombay, a Director of the Petitioner Company able to depose to the facts of this Petition solemnly declare that what is stated in paras 1, 2, 3, 4, 5, 6, 10, 11, 12, 13(part), 17, 19, 22, and 23 of the foregoing Petition is true to my own knowledge and what is stated in paras 7, 8, 9, 13 (part), 14, 15, 16, 18, 20 and 21 is stated on information and belief and I believe the same to be true.

Solemnly declared at Bombay)
aforesaid this 23rd day of)
March 1950.)

Before me,

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Ex. 'A'.

The Managing Director
North Deccan Transport Ltd.,
Nasik, 19th September, 1946.

To

The Secretary,
Provincial Transport Authority,
Secretariat,
Bombay.

Sir,

Re: Appeal under Section 64 (e) Motor Vehicle Act
for refusal of renewal for at least three years
public service state-carriage permit No. 21 of
the North Deccan Transport Ltd. of Nasik against
order No. 10920 of 1946 dated 27th August 1946
of Regional Transport Authority, Nasik.

I, the Managing Director of North Deccan Transport
Ltd. of Nasik beg to file an appeal under Section 64 (e) of
the Motor Vehicle Act against the above quoted order of R. T.
A. Nasik, refusing to renew the permit No. 21 under Section
58 of the Act for at least three years.

The said North Deccan Transport Ltd. has been operating
in Nasik Region Transport service for several years. An applica-
-tion was made on the usual P.S.T.S.A. form for renewal of
permit No. 21 of the stage carriage permits the said application
was submitted to the Secretary, R.T.A.Nasik in time together
with the fees; the said application was duly published in the
Government Gazette, but at its meeting held on 30-7-46 instead
of renewing the said permit for a minimum period of three years
as required by Section 58 of the Motor Vehicle Act, the said
Transport Company, received an order No. 10920 dated 27-8-46
(original herewith attached) intimating that the R.T.A. had
decided to renew the above permit on a temporary basis upto four
months under section 62 of the M.V.Act 1939, in view of the
instructions of the matter from the Government of Bombay.....".

The Petitioner beg to file the appeal against the
said order refusing renewal for the minimum period of three

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years as provided under section 58 of the Act and in accordance with the normal practice uniformly prevailing since the Act came into force.

a) It is submitted that R.T.A. being a semi-judicial body, being appointed and functioning according to the provisions of Motor Vehicle Act and Rules made thereunder, should decided matters by exercising its own Judgment and discretion and not in accordance to the direction of the Executive Government as it has admittedly done; giving the "Government instructions" as the main reason for the order.

b) The said order giving temporary permit for only four months is contrary to the mandatory provisions of both Sections 58 and 62 of the M.V.Act. This application for renewal should have been disposed of only under section 58 which makes special provisions for renewal for a minimum period of three years and maximum of five years.

c) Section 62 of the M.V.Act, under which the said order is made, has no application at all. The applicant did not apply for a temporary permit under section 62, but for a renewal of permit under section 58; temporary permits under Section 62 can be issued only for temporary or emergency reasons, mentioned in one or the other sub-clauses of section, and not for permanent service which was for the renewal only under Section 58 for the minimum or maximum period mentioned in that section.

d) It is submitted that in common law, the applicant is entitled to have his permit renewed for the minimum period provided, as the applicant has fulfilled all the provisions and requirements of Act and the Rules, and his permit cannot be withheld, cancelled or the minimum period reduced, except under provisions of ~~the~~ Act. It is submitted that the controlling and issuing Authorities are

bound

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bound to follow the provisions of law and rules and not instructions of Executive Government, not consistent with that law.

e) Besides this order is very prejudicial to the financial and ~~trade~~ trade interests of the applicant, the renewal fee under the Rules for the minimum period of three years, is only Rs. 5/- per vehicle whereas fees for temporary permit for four months only is Rs. 17/- per vehicle; which in the due course of three years would come to Rs. 198/- per vehicle.

Besides under Section 62 a temporary permit can under no circumstances last for more than four months in toto; thus an element of instability and uncertainty is introduced in the trade, which will also adversely affect its efficiency and utility.

For these and other reasons and arguments ~~th~~ that will be submitted at the hearing, it is prayed that the Provincial Transport Authority will set aside the said order as illegal, inequitable, unjust and harsh, and direct that as usual the said permit be renewed under Section 58 for minimum period of three years.

I have the honour to be,

Sir,

Your most obedient servant,

MANAGING DIRECTOR,
North Deccan Transport Ltd. Nasik.

Enclo:

1 Original order No. 10920 dated 27th August, 1946.

CNA/-

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY ORIGINAL CIVIL JURISDICTION.

AND

ITS GENERAL AND INHERENT JURISDICTION.

Civil Application No. of 1950.

In the matter of the Motor Vehicles
Act, 1939

and

other acts.

The North Deccan Transport Ltd. Petitioners.

Vs.

The State of Bombay & others. Respondents.

I, Godrej Dinshaw Homawalla of Nasik at present temporarily residing at Walkeshwar outside the Fort of Bombay make oath and say as follows:-

1. The Petitioners are a private limited Company incorporated in the year 1941 under the Indian Companies Act with a paid up capital of Rs.75,000/-. Prior to that the members of the Company were operators in the Nasik district since about the year 1925. I am and have been a Director of the Petitioner Company since its inception. I am at present Chairman of the Board of Directors of the Company. I am thoroughly conversant with the facts relating to this Petition and have been authorised by the Company under a resolution duly passed to attend to this Petition.
2. I confirm the statements made in the Petition herein.
3. The Petitioner Company having originally started with a capital of Rs.75,000/- has in course of time expanded its business and the assets of the Petitioner Company are at present of

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of the value of about Rs. 3 lacs. These assets consist of a fleet of 18 passenger buses, 5 goods vehicles and three taxis. Besides this, the petitioners are possessed of a plot of land with a shed thereon used for the purposes of office, the open land being used for the parking of vehicles. The value of the said property is about Rs. 60,000/-.

4. Since the formation of the Petitioner Company they have been operating stage carriage buses on the routes mentioned in the Petition for which they held a permanent permit for 5 years which expired on 26th August 1946. Prior to the expiration of the said permit the Petitioners made an application within the prescribed time and in the prescribed form to the 2nd Respondent but the 2nd Respondent instead of renewing the permit in consonance with section 58 of the Motor Vehicles Act issued an Order No. 10920 dated 27th August 1946 intimating to the Petitioners that the 2nd Respondent had decided to renew the permit on a temporary basis upto four months under section 62 of the Motor Vehicles Act, 1939, in view of instructions received by the 2nd Respondent from the 1st Respondent. The Original of the said Order has been attached to the Petitioners Appeal hereinafter referred to and is still on the file of the 3rd Respondent. The Petitioners have not preserved any copy of the said Order and are therefore unable to annex a copy thereof to the Petition.

5. The Petitioners being dissatisfied with the said Order of the 2nd Respondent dated 27th August 1946 preferred an appeal under Section 64 of the Motor Vehicles Act 1939 to the Appellate Committee of the 3rd Respondent as provided by Rule 76 of the Bombay Motor Vehicles Rules. The said Appeal was preferred on the ground inter alia that the Petitioners' permit should have been renewed.

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renewed under section 58 of the Motor vehicle Act and that a temporary permit should not have been granted under the provisions of section 62 of the said Act. The said Appeal was however kept pending by the Respondent till after the promulgation of the Motor Vehicles (Bombay Amendment) Act 1947. As soon as the said Act came in to force on 23rd March 1947 whereby sub-clause (d) was added to the said section 62 conferring power on the 2nd respondent to issue a temporary permit pending decision on an application for the grant or renewal of a permit the 3rd Respondent by its Secretary's letter dated the 10th April 1947 intimated to the Petitioner that the issue of a temporary permit to the petitioners was not illegal, that the 2nd Respondent had been authorised under section 62 (d) to grant such a permit and that therefore the petitioners appeal would not be heard by the Appellate committee of the 3rd respondent. By the said letter, the petitioners were intended to believe that their application for a permanent permit was still pending and would receive due consideration at the hands of the 2nd Respondent.

6. Thereafter instead of renewing the said permit, temporary permits were issued from time to time to the petitioners as set out in the petition. The last temporary permit so issued expired on 31st March 1950.

7. The 2nd Respondent with the Regional Transport officers letter dated 8th July 1949 forwarded to the petitioners two notifications issued by the Government of Bombay one dated the 1st June 1949 and the other dated 30th June 1949. Under the first notification Government declared its intention to cancel the petitioners permit in respect of the four routes operated upon by the petitioners. For the purposes of this petition the petitioners are not concerned with the later notification dated 30th June 1949.

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8. In pursence of the ~~Notifiation~~ Nationalisation scheme of the 1st Respondent and under the orders and directions of the 1st Respondent it has been decided by the 2nd and 3rd Respondents that the permanent permit of the petitioners should not be renewed and that the temporary permit which expires on 31st March 1950 should also not be renewed and that a permit should be granted to the 3rd Respondent or the 4th Respondent corporation, as appears from the facts hereinbelow set out. Accordingly on 11th March 1950, the petitioners made a fresh application to the 2nd Respondent for the issue of a permanenet permit or in the alternative for the disposal of their pending application, and although requested to do so within a weeks time, formal answers have been received from the 2nd and 3rd Respondent that the matter is receiving attention.

9. About the 15th or 16th ^March 19450 the Notification annexed to the petition as Exhinit F was put up on the notice board the 2nd ^Respondent from which it appears that pending the disposal of the petitioners application for a permit, an application for a permit in respect of the same routes has been made by the Provincial Motor Transport Controller who is the administrative head of the 3rd Respondent. The said notification invites representations by interested parties against the said applicaiton of the provincial Motor Transport Controller in pursuance of the procedure which it is incumbent on the 2nd Respondent to follow under the provisions of the Motor Vehicles Act 1939. The procedure so adopted is not bona fide but merely as a blind for the purpose of making a show that the usual procedure has been followed whereas the 2nd Respondent has already decided not to grant the permit to the Petitioners but to grant same to the 3rd Respondent or the 4th Respondent corporation. In fact as appears from the said order dated 27th August 1946 the 2nd Respondent had as far back

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as the said date surrendered his descretion to the 1st Respondent and was merely acting in accordance with their instructions.

10. As the procedure contemplated by the said notification would necessarily require time before a permanent permit could be issued to the 3rd Respondent or to the 4th Respondent corporation a fresh Notification being Exhibit G to the petition was put up on the Notice Board of the 2nd Respondent on or about the 19th March 1950 informing the public that the Provincial Transport Controller had applied for a temporary permit in respect of 3 out of the 4 routes on which the petitioners operate and that objections to the same should be filed before 27th March 1950 and the same would be heard by the 2nd Respondent on 28th March 1950. It thus appears clear that the intention of the 2nd Respondent is to issue a temporary permit to the 3rd Respondent or the 4th Respondent Corporation as from the 1st of April 1950 and to refuse ^{renewal} of the Petitioners permanent and or temporary --- permits. The said intention is further manifest from a letter dated 13th March 1950 received by the petitioners from the Divisional Controller State Transport Bombay intimating that the employees drivers and Conductors of the Petitioners require to be trained in their jobs before the petitioners routes are taken over by the 4th Respondent Corporation and that the petitioners employees should be spared for certain hours in order to receive such training. A copy of the said letter is hereto ^{annexed} ~~annexed~~ and marked "A".

11. It is submitted that the said letter leaves no room for any doubt that the provincial Transport Controller has applied for a permanent as well as a temporary permit as aforesaid for and on behalf of the 4th Respondent corporation.

12. The petitioners only business is that of operating passenger buses as well as goods buses and the said business has been built up by the petitioners by their labour and the employment

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of a large amount as capital during the last many years. If the petitioners are to lose their permits in respect of state -- carriage they will not be able to profitably carry on their business as regards the carriage of goods not will they be able to do so if they have to cease to operate on some of the routes leaving them to operate the unremunerative routes. Upto Now, the practice adopted by the state Transport is to take over only those routes which are remunerative, leaving the old --- operates to carry on with the unremunerative routes and those routes when the road condition is very poor. The petitioners have had a clean record during the last nine years and there is no circumstances against them to disentitle them to a renewal of their permit. They are maintaining the required number of vehicles in good order and condition. The petitioners have maintained the time table and fares as laid down by the 2nd Respondent. In fact, the same fares have been maintained by the Petitioners since 1938, in spite of rise in prices of vehicles, spare parts, petrol and employees salaries. The taking over of the petitioners business by the 4th Respondent corporation is not by any means for the benefit of the public. So far as the public is concerned the rates allowed to the petitioners have always been very low and the same will compare very favourably with the enhanced rates that will be charged by the 3rd Respondent or the 4th Respondent corporation. This will appear clear from a -- comparison of the rates charged by the state Transport in places where existing services have been taken over from the old operators. It has been the experience in all places where the state Transport has taken over the service that the fares

charged

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charged are more than 50 per cent of the previous fares and that the service is not as efficient as the former service and further that there has been a great curtailment in the number of vehicles operating on certain routes so taken over causing hardship to the public.

13. It is respectfully submitted that the petitioners, should be granted the reliefs and in particular the interim reliefs prayed for in the petition as otherwise irreparable damage will be caused to their business.

Sworn at Bombay aforesaid)
This 23rd day of March) Sd/-
1950.)

Before me,

Sd/- A.R. Narayan Ayer.

Asst. Master.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
IN ITS APPELLATE CIVIL JURISDICTION.

a n d

IN ITS INHERENT JURISDICTION

MISC.APPLN.No.747 of 1950.

Misc. Petition No. 1576 of 1950

R) The North Deccan Transport Ltd., (an incorporated)
Company registered under the Indian Companies
Act 1913) having its registered office at Bombay
Agra Road, Nasik, Bombay State.....) Petitioners.

versus

1. The State of Bombay, having its office at the
Secretariat, Bombay.)
2. The Regional Transport Authority, North Dec-)
can Region, Nasik, being a body constituted under)
the Motor Vehicles Act 1939 having its office at)
Trimbak Road, Nasik...)
3. The Bombay State Road Corporation, being a)
Corporation appointed by the Government of)
Bombay under Act XXXII of 1948 having its office)
at Worli, Bombay...) Respondents.

In the matter of Art. 132 and 133
of the Constitution of India.

To the Honourable the Chief Justice and other the Judges
of this Honourable Court.

The Petition of the Petitioners:

- (1) The State of Bombay,
- (2) The Regional Transport Authority, and
- (3) The Bombay State Road Corporation,
the Respondents abovenamed..

Most Respectfully Sheweth:-

1. That the Respondents (original Petitioners) abovenamed
The North Deccan Transport Ltd., being aggrieved by an Order
passed on or about the 25th April 1950 by the Regional Transport
Authority, the 2nd Petitioner herein, (the 2nd Respondent in
Misc.Appln.No.747 of 1950) above mentioned, under the Motor
Vehicles Act, 1939, granting a permanent permit to the Bombay

Bombay State Road Transport Corporation, the 3rd Petitioner herein abovenamed, for plying and operating their buses on certain routes of the Nasik District, filed Misc.Application No.747 of 1950 in this Honourable Court asking for relief against the said Petitioners herein. In the said application the Respondents prayed for the grant of Writs of Certiorari Mandamus and Prohibition and for orders and directions against the Respondents, and for the cancellation of the said permit issued to the 3rd Petitioner, for an Order under the Specific Relief Act calling upon the 2nd Petitioner to hear afresh the applications for the said permit, and other reliefs.

2. That the said Misc.Application No.747 of 1950 came up for hearing before a Division Bench consisting of the Honourable the Chief Justice and the Honourable Mr. Justice Ganadragadkar on the 16th October 1950, the Petitioners' counsel submitted that notice should be given to the Attorney General of India in accordance with O. 27 A of the Code of Civil Procedure and their Lordships declined so to do, holding that no substantial question of law as to the interpretation of the Constitution was involved. Their Lordships on the same day after hearing the parties set aside the said order of the said Regional Transport Authority, the 2nd Petitioner herein made on the 25th April 1950, and ordered the said Regional Transport Authority to hear afresh applications for the grant of a permanent permit under the Motor Vehicles Act 1939 in accordance with law, and also ordered the Petitioners herein to pay to the Respondents herein the costs of the said Misc.Application quantified at Rs.500/-. Their Lordships held that the State Road Transport Act, 1948 under which the State Transport Corporation was constituted, was ultra vires the Central Legislature on the ground that the power of legislation belonging to that legislation was delegated thereby to the State Government of Bombay and that therefore the State Transport Corporation was

was an illegal body not capable of holding a permit.

3. Aggrieved by the said Order of this Honourable Court, the Petitioners herein are desirous of appealing to the Supreme Court from the same on the following among other grounds:-

- (i) That the Honourable Court erred in holding that the contentions raised in the said Civil Application No. 747 of 1950 did not involve a substantial question of law as to the interpretation of the Government of India Act, 1935.
- (ii) That the Honourable Court erred in refusing to serve a notice on the Attorney-General of India under Order XXVII A of the Civil Procedure Code.
- (iii) That the Hon'ble Court erred in holding that the Central Legislature in passing Act XXXII of 1948 ~~su~~ abdicated its legislative function in regard to item 33 in List I of Schedule VII of the Government of India Act 1935, and delegated it to the State Government, and that, therefore, the said Act was ultra vires the Central Legislature.
- (iv) That the Hon'ble Court should have held that there was no delegation of its legislative function by the then Central Legislature to the State Government in the provisions of the said Act XXXII of 1948.
- (v) That the Hon'ble Court in any event should have held that the delegation of authority made by the then Central Legislature to the State Government was within the limits permissible in law.
- (vi) That the Honourable Court should have held that the said Act XXXII of 1948 was intra vires the Central Legislature and valid, and that the Notification of the State Governments dated the 16th November 1949 was also valid.
- (vii) That the Hon'ble Court erred in construing the true legal effect of the Section of the said Act XXXII of 1948 and the provisions of the said Notification of 16th November 1949

1949 of the State Government.

(viii) That the Honourable Court erred in holding that the invalid sections of the said Act XXXII of 1948 were not severable from the remaining sections of the said Act, and therefore the whole Act was void.

(ix) That the Honourable Court erred in holding that the said Bombay State Road Corporation had no legal existence.

(x) That the Honourable Court erred in holding that the said permanent permit granted to the 3rd Petitioner herein by the said Regional Transport Authority was invalid.

(xi) That the Honourable Court in any event should have held that the said permanent permit granted on the 25th April 1950 was valid as having been granted to the Board constituted by the said Notification of 16th November 1949.

(xii) That the Honourable Court erred in setting aside the said Order of the Regional Transport Authority granting the said permit to the 3rd Petitioner, and ordering the said Regional Transport Authority to consider afresh the question of the issue of a permanent permit to an applicant, and further erred in granting the Petitioners costs of the said Misc-application.

(xiii) That the said order of the Honourable Court is contrary to law and against justice, equity and good conscience.

(xiv) That the Honourable Court should have dismissed the said Civil application with costs.

4. (a). That the said Order of this Honourable Court involves directly or indirectly a claim or question respecting property of the amount or value not less than twenty thousand rupees;

(b) that the case involves a substantial question of law; as to the interpretation of the Government of India Act, 1935.

(c) that it otherwise involves a substantial question of law;

(d) And that it is a fit one for appeal to the Supreme Court.

5. That the Petitioners herein (the above-mentioned Respondents) are ready and willing to comply with the rules and orders as to giving security for costs and otherwise regulating appeals to the Supreme Court.

6. Your Petitioners, therefore, pray that your Lordships be pleased:-

- (a) to grant the said Petitioners a Certificate that the said Order of the 16th October 1950 of this Honourable Court involves directly or indirectly a claim or question respecting property of the amount or value not less than twenty thousand rupees,
- (b) that the case involves a substantial question of law as to the interpretation of the Government of India Act 1935.
- (c) that the case is a fit one for appeal to the Supreme Court,
- (d) to admit this Petition and to transmit to the Supreme Court under the seal of this Hon'ble Court a correct copy of the record so far as is material to the questions in dispute herein.

Petition drawn by:

C. K. Daphtary, Esq
Bar-at-Law,
Advocate General of Bombay

Sd. D. S. Sathe
Motor Transport Controller,
State, Bombay

Sd. Little & Co.

~~Solicitors to the Government of Bombay and~~
Attorneys for the Petitioners and original Respondents.

I, DINKAR DATTATRAYA SATHE, I.C.S. of Bombay, Hindu Inhabitant, the Motor Transport Controller, State of Bombay, residing at Earl's Court, Marine Drive, Fort, Bombay, solemnly declare that what is stated above is true to my information and belief and I believe the same to be true.

Solemnly

Solemnly declared at Bombay)
 aforesaid this 19th day of) *Sd. S. S. Sathe*
 October 1950.....)

Before me,

Sd/-
 Asstt Master
 Associate

*Solemnly affirmed before me by S. S. Sathe
 who is identified by J. N. Tipnis. Whom I
 personally know. High Court, Bombay Appellate
 Side*

Sd. R. Mahale.

Sd. J. N. Tipnis.

HIGH COURT

In its Appellate Civil
Jurisdiction
and
In its Inherent Jurisdiction

Misc. Appln No 747 of 1950

Misc Petition

The North Deccan Transport)
-Ltd.....Petitioners

vs

The State of Bombay & ors. Respondents

PETITION for leave to appeal to
the Supreme Court.

Messrs Little & Company

Attorneys-at-Law and
Solicitors to Government

Civil Application No. 747 of 1950.

117 15/10/50
16th October 1950.

the
/CHIEF

Gajendragadkar.

Sir N.P.Engineer with Mr. Palkhivala and Mr. N.J.Khambata
for the Petitioners.

The Advocate General with the Additional Asst. Govt. Pleader
and M/S Little & Co. for Respondents Nos. 1 to 3

CORAM : Chagla C.J. & Gajendragadkar J.

Monday, 16th October 1950.

ORAL JUDGMENT: (Per Chagla C.J.)-

The Petitioners are a private limited company and they have been plying buses in the District of Nasik on certain routes, and these buses have been plied by them pursuant to a permit which was issued to them on the 7th of June 1941. The petitioners then applied for a renewal of the permit. Instead of a permanent permit being issued, a temporary permit was issued to them, and temporary permits were issued from time to time in the beginning for a duration of four months and later on for a duration of one month until the last of

such temporary permit expired on the 31st March 1950, The petitioners applied again for a renewal of a permanent permit, and a meeting was held of the Regional Transport Authority on the 25th April 1950 and at that meeting the authority decided to issue a stage carriage permit for operation ~~an~~ on all the routes in the Nasik District including the routes on which the petitioners used to ply their buses to the third Respondent which is the Bombay State Road Transport -- Corporation. It is the issuing of this permanent permit to the third Respondent that is being challenged in this petition.

The challenge is based on several grounds, but as it is possible to dispose of this petition on one ground alone we think it unnecessary to go into the other grounds. The ground which has found favour with us is that the third Respondent was set up under an Act of the Central Government, being Act XXXII of 1948, and by that Act the Central Legislature delegated to the Provincial Government the authority to set up this Corporation, and the contention of Sir Nusserwanji is that in doing so the Central Legislature has delegated its legislative function to the Provincial Government which it had no authority to do, and therefore Act XXXII of 1948 is ultra vires of the Central Legislature and the Corporation

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which has been brought into existence by the Provincial Government pursuant to that Act has no existence in law. If, therefore, this Corporation has no existence in law, then no permit could be issued to it, and in issuing a permit to it the Regional Transport Authority acted contrary to the provisions of the Motor Vehicles Act. The Central Legislature enacted Act XXXII of 1948 ~~and~~ pursuant to the power given to it under Entry 33 in Schedule VII of the Government of India Act 1935. That Entry deals with corporations, that is to say, the incorporation, regulation and winding up of trading corporations, etc. It is therefore the legislative function of the Central Legislature to legislate with regard to incorporation, regulation and winding up of trading corporations.

It may perhaps be advisable at this stage to deal with an application made by the Advocate General that it is necessary under Order XXVII-A of the Civil Procedure Code to serve a notice upon the Attorney General as the contention put forward by the petitioners involved a substantial question of law as to the interpretation of the Government of India Act, 1935. Undoubtedly, if the argument advanced by Sir Nusserwanji involved the interpretation of Entry 33 in Schedule VII, then that point would raise a substantial

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question as to the interpretation of the Government of India Act, 1935. But the contention of Sir Nusserwanji is not with regard to the interpretation of the Government of India Act; it is a question of constitutional law entirely independent of the Government of India Act, 1935. When a piece of legislation is being challenged on the ground that it constitutes delegated legislation, that argument implies that the Legislature that passed the law had the competence to pass it. The grievance is not that the Legislature had no competence to pass the legislation. On the contrary the grievance is that the Legislature having the competence surrendered its powers to some other authority, abdicated itself, and delegated its powers to some other body. Therefore, in considering the question as to whether the Act which is challenged constitutes delegated legislation or not, the assumption must be that the Central Legislature had the competence to legislate under Entry 33 of Schedule VII, and in our opinion no question of interpretation of Entry 33 arises on this petition. Entry 33 is clear and explicit. It deals with the subject-matter about which there can be no dispute, and both Sir Nusserwanji and the Advocate General are agreed that the Central Legislature in passing Act XXXII of 1948 was exercising its legislative function under Entry 33 of Schedule VII. The ~~legislative~~ real question that we have to decide

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whether in exercising its function it delegated some of its function to an outside authority which it had no power to do under the general constitutional law.

Now turning to the statute from this point of view, the preamble of the Act sets out the reason for creating a Road Transport Corporation and the reason is the promotion of a co-ordinated system of road transport in India. It further provides that such a Corporation should have both the Central and the Provincial Governments properly represented. In sec. 2 "Corporation" is defined as the Road Transport Corporation appointed by the Provincial Government in pursuance of the Act. Then sec. 3 deals with the power of Provincial Governments to appoint Corporations, and confers the power upon the Provincial Government to appoint Corporations by notification provided three conditions laid down in that section are satisfied, and those conditions are: (1) the advantages offered to the public, trade and industry by the development of road transport; (2) the desirability of co-ordinating any form of road transport with any other form of transport; and (3) the desirability of extending and improving the facilities for road transport in any area in such manner as to provide most efficiently and as cheaply as possible for the needs thereof and of Preventing uneconomic competition among any forms of road

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transport. Then sub-section (2) of that section provides
for the share capital of the Corporation and it makes it
incumbent that certain portion of share capital must be
allotted to the Central Government. It also provides for
adequate representation of the Central Government and of
the Provincial Government on the Corporation; and finally it
provides for payment of due compensation in accordance with
certain rules to be framed to the owners of any road
transport services whose services are taken over by the
Corporation. Then sec. 5 deals with the composition of
Corporation and that section provides that the Corporation
appointed by the Provincial Government shall consist of such
number of persons as the Provincial Government may think fit
to appoint and shall have such rights and privileges and
shall exercise such duties and functions as may be specified
by or under any Provincial Law. Then sec. 6 deals with the
winding up of the Corporation with which we are not concerned
in this case. And finally sec. 7 deals with the power to
make rules.

This is an Act for the purpose of creating a
Corporation because sec. 4 provides that the Corporation
appointed by a Provincial Government in pursuance of this
Act shall be a body corporate having perpetual succession
and a common seal and may sue and be sued by the name given

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to it by or under the relevant Provincial law. This act therefore is the charter of the Corporation. If I may use an analogy, it is what a memorandum of association or articles of association would be to a corporation that has been registered under the Indian Companies Act. Undoubtedly the Act lays down the necessity for creating such a Corporation. It lays down the object for creating this Corporation. It also lays down the conditions and circumstances under which the Provincial Government has to bring this Corporation into existence. But when we try to ascertain what are going to be the powers and the functions of this Corporation, there is not even an indication given by the Legislature as to what they should be. The rights and privileges of this Corporation are to be determined entirely by the Provincial Government, and the Provincial Government has no indication given to it by the Central Legislature as to how they should be guided in settling the rights and privileges of this Corporation. It is perfectly open to the Legislature to lay down the policy and to ask some outside authority to work in the details within the framework of that policy. But in the legislation one must at least find the framework of the policy, and there is not, as I said, even an indication of any framework as to the powers and functions of the Corporation which the

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Provincial Government is to establish or appoint.

Now, when we turn to the notification dated the 16th November 1949 which was issued by the Provincial Government by which the third Respondent was appointed, we find in detail the powers, functions and duties of the Corporation which are to be exercised through a Board which is to be set up. We also find in detail the financial provisions of this Corporation. Therefore, the charter of the Corporation is not Act XXXII of 1948, but it is the notification issued by the Provincial Government. It is to the notification that we have turn in order to find out what the powers and functions of the Corporation are. If, therefore, the regulation of a Corporation is a legislative function of the Central Legislature, it is clear that in passing Act XXXII of 1948 the Central Legislature did not exercise that legislative function but delegated that function to be exercised by the Provincial Government. In doing so it abdicated its function and having done so the legislation which it has passed is clearly ultra vires. In our opinion, therefore, Act XXXII of 1948, inasmuch as it delegates to the Provincial Government the right and authority to establish the Corporation which it ultimately did, viz., the third Respondent, is ultra vires, and as a result of the Act being ultra vires the notification issued by the Government of

Bombay
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is bad and no Corporation validly came into existence. No question of severability would arise in this case because as the Act is of one piece and it only deals with the creation of this Corporation and has delegated that very function to the Provincial Government the Act must be considered void as a whole.

If that be the true position, when we have this situation arising that the Regional Transport Authority under the powers given to it under the Motor Vehicles Act has granted a permanent permit to the third Respondent which is not a legal person at all and which has no~~x~~ existence in law. It has been argued by the Advocate General that although the third Respondent may have no legal existence, we must look upon the permanent permit having been issued to the Board that is constituted under the notification and which Board is to manage the affairs of the Corporation. The Advocate General says that there is no ~~be~~ar in law on the members of the Board applying for a permit and getting the permit, and we must look upon this transaction not as a permit issued to a non-existing corporation but a permit issued to persons who in fact and in substance would be working the permit. We are unable to accept that contention. It is hardly necessary to say that there is all the

difference

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difference in the world between a corporation and a board of management which is to manage the affairs of that corporation. In the eye of the law a corporation is an entirely different legal persona from those who manage the affairs of the Corporation. A corporation has neither a body nor has it a soul, and in the very nature of things the affairs of a corporation must be managed by human beings; but from that it does not follow that those human beings who manage the corporation have the same rights in the eye of the law as the corporation. Therefore, when a permit was given to the third Respondent, it was not given to the Board; ^{It was not given} ~~it~~ ^{to those who were managing the Corporation;} it was given to the corporation as a legal persona; and if the legal persona had no existence in fact, then the permit issued to the corporation is bad and is not in conformity with the Motor Vehicles Act.

When the permit was issued to the third Respondent, the application of the petitioners was before the Regional Transport Authority. The allegation of the Respondent is that the Regional Transport Authority considered both the applications on merits and came to the conclusion that the third Respondent was entitled to the permit and the petitioners were not. But in coming to that conclusion the Regional

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Transport Authority had before it the third Respondent whom it looked upon as a legal persona having a legal existence.

Now that we have come to the conclusion that the third ---

Respondent has no legal existence, we must direct the ---

Regional Transport Authority to consider afresh the question

of the issuing a permanent permit. We must therefore ask him

to follow the procedure laid down in the Motor Vehicles Act and

decide on merits whether the petitioners or any other person who

has properly applied for a permanent permit is entitled to such

a permit. The Advocate General says that it would be open to the

Board to apply for ~~an~~ such a permit. The Board consists of indi-

viduals and if these individuals comply with the procedure laid

down under the Motor Vehicles Act and make a proper application

for a permit, we see no reason why the Regional Transport Autho-

rity should not consider the application just as much it would

consider the application of the petitioners. As I said before,

the Regional Transport Authority will decide the question of the

issuing⁴ a permanent permit according to the procedure laid down

under the Motor Vehicles Act and will issue the permit on the

merits of the applications before it.

We therefore set aside the order passed by the

Regional Transport Authority on the 25th April 1950 issuing

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the permit to the third Respondent and we direct him to deal with the matter in accordance with the law and in the light of the judgment just delivered.

Petitioners to get their costs. Costs quantified at Rs. 500.

HIGH COURT.

O. O. C. J.

Misc. Appln. No.747 of 1950

The North Deccan Transport)
Ltd.....) Petitioners.

vs.

The State of Bombay & Ors.) Respondents.

ORAL JUDGMENT delivered by the
Hon'ble Mr. Justice Chagla C.J. and
Mr. Justice Gajendragadkar J. on the
16th October 1950.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

Ordinary and Inherent Jurisdiction.

Civil Application No. 327 of 1950.

In the matter of Motor Vehicles Act 1939.

Motor Vehicles (Bombay Amendment) Act 1947.

And

The Road Transport Corporation Act of 1948.

The Belgaum Motor Transport Company Ltd., a
Company registered under the Indian Companies
Act 1913 and having its registered office at
Belgaum. } PETITIONERS.

Versus.

1. The State of Bombay.
2. Provincial Transport Officer of the
Government of Bombay having his office
at Churchgate in Bombay, and
3. Regional Transport Authority Karnatak
Region, Belgaum. } RESPONDENTS.

To,

The Hon'ble the Chief Justice and the other Judges
of this Honourable Court.

The humble petition of the petitioners abovenamed
humbly Showeth :-

1. The petitioners are a limited company incorporated in
India and having their office at Belgaum. Respondents Nos.
2. is the officer of Respondent No. 1 incharge of the
administration of the Motor Vehicles Act 1939 and
Respondents No. 3 is the authority constituted under
the said Act.

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2. Prior to 1943 several persons carried on business of plying motor buses for carriage of passengers on different routes in the Southern part of the State of Bombay, Acting under the directions given from time to time by the authorities administering the Motor Vehicles Act 1939(hereafter referred to as the said Act) the said persons firstly formed themselves into a Union and thereafter in the year 1943 promoted the Petitioners company with themselves as its members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The petitioners took over the said businesses and have been carrying on the business of Motor transport on different routes round about Belgaum. All the members of the petitioners are domicile citizens of India.
3. After the businesses were taken over by the petitioners as aforesaid the petitioners were granted State carriage permit No. P. St.S.175(1-38) by the authorities under the said Act of duration contemplated by Section 58 of the Act and said Permit was renewed to the petitioners under Section 58 Sub Clause 2 and the duration of the last such renewed permit was due to expire on 6-1-1949.
4. On 5th November 1948, as required under the law the petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for the renewal of their aforesaid permit expiring on 6-1-1949. A copy of the said application is annexed hereto and marked as Exhibit "A". The said Officer acting under the directions of the respondents, did not proceed with the said application in accordance with the provisions of sections 57 and 58 of the said Act but renewed the permit for stage carriages from time to time for a duration only of a period of four months at a time upto 6-1-1950 and thereafter from 7-1-1950 to 31-1-1950 and from 1-2-1950 to 28-2-1950 and from 1-3-1950 to 21-3-1950.
5. On the 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum, by this letter of that

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date forwarded to the petitioners a copy of the Government Notification, Home Dept. No. 4714/5 dated 31-8-1949 which declared the intention of the Government to cancel the permits specified in the schedule annexed to that Notification which included the permit of the petitioners and proceeded to state that that officer was directed to inform the Petitioners that although the validity of the Petitioners' temporary permit extended beyond 30-11-1949 and same should be treated as valid upto 30-11-1949. Hereto annexed and marked Exhibit "B" is a copy of the said letter and the relevant extracts of the said Notification No. 4714/5.

6. The Government Notification No. 4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub section (1) of Section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) and (d) of sub section (1) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and Regional Transport Authority Belgaum. The Petitioners state that the petitioners and several other owners of transport business in the Karnatak Region were vitally affected by the powers exercised by the Government by the Notification aforesaid and yet no -- representative of the petitioners was heard as stated in the said Notification and that the Petitioners, on inquiries have learnt that no representative of any of the owners of the Motor Transport business in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary Regional Transport Authority Belgaum by his letter dated 1-2-1950 informed the petitioners that the State

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State Transport may take over services operated by the petitioners on the routes of the Petitioners or any portion thereof from 1-3-1950. Hereto annexed and marked "C" is the copy of the aforesaid letter.

8. The petitioners state that the action of the Respondent No. 1 in issuing the said Notification No. 4714/5 has been malafide in as much as Respondent No. 1 or any other Respondents have not at all heard the representatives of the interests affected by the said Notification. The petitioners submit that the said Notification, is illegal, void and inoperative. The Petitioners further submit that the conduct of the Officers of the Government including the Secretary of the Regional Transport Authority Belgaum and of the Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the directions given to them from time to time by respondent No. 1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said Officer and Authorities have refused to consider the application of the petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in sections 57 and 58 and to renew the permit of the petitioners for a period not less than three years and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the permit of the petitioners for very short durations as stated in paragraph 5 hereof. The aforesaid conduct of the respondents and of the officers of the respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past 3 years the Respondent No. 1 have been following what they call the polity of nationalisation of Road Transport Services and in pursuance thereof they started a Department of State Transport which has been plying Motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers - - -

powers conferred upon them by the Road Transport Corporation Act, XXXII of 1948 Respondent No. 1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No. 1780/5 dated 16th November 1949 and have thereunder appointed a certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this petition the 2nd respondent has been the Provincial head of the Officers administering the said Act and has also held the position of the Provincial head of the Transport business carried on by the 1st respondent as State Transport Corporation-. With a view to carry out the policy of the 1st Respondents calculated to oust and supplant the entire business of the Motor transport by private individuals the 2nd Respondent and the Officers subordinate to him as well as the Provincial Transport Authority and Respondents No. 3 have acted in accordance with the directions of the 1st respondents given to them and have not used any independent judgment of their own in deciding matters relating to the permit of the petitioners and the renewal thereof since 6-1-1949 and their decisions have been biased and prejudiced. The respondents 1 and 2 have in the above matters from time to time given directions to the Officers and to Respondents No. 3 entrusted with the administration of the said Act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the petitioners and have intentionally and deliberately violated and circumvented the provisions of the said act as well as of Road Transport Corporation Act relating to the prescribed amount of the compensation payable to the petitioners in respect of the taking over of their business by passing such order as will reduce to a minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its good will under the said Act as well

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well as the Road Transport Corporation Act.

11. At the instance of the 1st and 2nd respondents the 3rd respondents addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and the letter contained in Ex. C and also renewed their permits on a temporary basis and between 7-1-1950 to the date of this petition, the renewals were all made for the same periods as the renewals of the petitioners' permit. The obvious object of the said letter dated 20-9-1949 and the said letter contained in Ex. C and similar letters addressed to others was that as soon as the buses of the State Transport or the said Corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd respondents would cancel the subsisting permits of the private operators and would refuse to renew any permit which had expired. The petitioners state that the temporary renewals of the permits of the petitioners and others in the area were devised to suit the convenience of the State Transport department and the said Corporation of the State Transport department and the Corporation who had not been able to complete their preparation for starting their services.

12. Under article 14 of the constitution of India the Petitioners are entitled to a treatment before the Law and protection of the law equal with the Transport business carried on by the 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19(g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the permit of the petitioners the Petitioners have had no fair trial and the petitioners apprehend that they have no chance of a fair trial of their

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their case at the hands of the Officers and the Official bodies administering the Motor Vehicles Act, and that the fundamental rights under Articles 14 and 19(g) of the Constitution are violated by the Respondents and the Officers and bodies administering the said Act. The respondents have failed to notice that after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the petitioners are inoperative and that the respondents and all officers are bound to administer the said act so as not to violate the fundamental rights of the petitioners.

14. The Petitioners state that with the object of totally ousting the petitioners from their business and in its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the petitioners of their business and any right to claim compensation for goodwill and loss of business and capital invested therein the respondents have failed and neglected to and have directed their officers not to renew the permits of the petitioners and have threatened to cancel the same from 1-3-1950 and misused the powers under and provisions of the said Act.

15. The Petitioners submit that the functions to be discharged by the 2nd respondent and the officers and bodies subordinate to him in the matter of renewal of State Carriage permit of the petitioners and of taking over and ascertaining compensation for the business of the petitioners are judicial functions and that the 2nd respondent and the officers subordinate to him including the Provincial Transport Authority Bombay and Respondents Nos. 3 have acted in accordance with the directions of the 1st and 2nd respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the

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of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

16. The Petitioners submit that it is in the interests of justice that this Honourable Court should issue a writ of prohibition or make other suitable order against the respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No. 4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the - - - Petitioners from or depriving them of their existing business of transport by stage carriages.

17. The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the writ of Certiorari calling for the records of proceedings relating to the Permit for stage carriages of the petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

18. The Petitioners submit that it is in the interest of justice that the respondents No. 3 be ordered by an order and mandatory injunction of this Hon'ble Court to renew the permit for State carriage of the petitioners for a period of not less than three years.

19. The Petitioners submit that it is necessary in the interests of justice that the respondents be prohibited by a Writ of prohibition from themselves issuing orders or giving directions to the Officers or bodies administering the said Act to cancel the State carriage permit of the petitioners and from passing any orders other than the order renewing the stage carriage permit of the Petitioners and from doing any act calculated to prejudicially affect the business of transport by stage carriage carried on by the petitioners.

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20. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its power of Superintendence call for the records of proceedings relating to the stage carriage permit of the petitioners and pass such orders as justice of the case may require.

21. The Petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

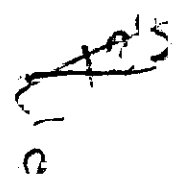
22. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this petition the respondents may be restrained by an order and injunction of this Hon'ble Court from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by stage carriages carried on by the Petitioners.

23. The orders passed by the directions given by the respondents Nos. 1 and 2, were all passed and given in the City of Bombay, the orders passed by the Respondents Nos. 3 and the officers and bodies subordinate to the respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this petition.

24. The Petitioners, therefore pray :-

- (a) That this Hon'ble Court will be pleased to issue a writ of prohibition or other suitable order against the respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the petitioners from or depriving them of the existing business of transport by stage carriages.

(b)

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(b) That this Hon'ble Court may be pleased to issue a writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority Belgaum relating to the permit for stage carriages of the petitioners. before this Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary.

(c) That this Hon'ble Court will be pleased to issue a mandatory injunction against the respondents Nos. 3 and order them to renew the permits for Stage Carriage of the Petitioners for a period not less than three years.

(d) that in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for the records of proceedings relating to the stage carriage permit of the petitioners and pass such orders as just of the case may require.

(e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by stage carriages carried on by the Petitioners and may further be ordered to renew the permit.

(f) That such order as to this Hon'ble Court may seem fit be made as regards the costs of the

petitioners-

petitioners of this Petition.

and

(g) That the petitioners may have such further and other relief as the nature of the case may require.

Petition drawn by)
Messrs. Gokhale Kale)
& Co., Attorneys at-)
law)

I, H.M.Jamadar resident of
Baihongal Dist. Belgaum now temporarily residing at Hornby
Road, Fort, Bombay a Director of the petitioners able to
depost to the facts of this petition solemnly declare and
state that what is stated in paragraphs 1, 2, 3, 4, 5 part
6 and 7 of the foregoing petition is true to my knowledge
and what is stated in the remaining paragraphs is stated on
information and belief and I believe the same to be true.

Sd. H.M.Gamadar.

Solemnly declared at Bombay)
aforesaid this 23rd day of)
February 1950.)

Before me,

(Usual affirmation clause follows).

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EXHIBIT "A"

THE BELGAUM MOTOR TRANSPORT CO. LTD.

Date November 5th 1948.

Ref. No. 540/BMT/48

The Regional Transport Officer,
Karnatak Region,
Belgaum.

Sub.- Renewal of Stage Carriage Permit.

Respected Sir,

With reference to the above, subject, we beg to state that the Regional Transport Authority, Belgaum has granted to our Company The Stage Carriage Permit No. P.S.Ts. 175 (1- 38) for operating thirtyeight State Carriages on the following routes in the Karnatak Region.

Belgaum to Dharwar	No. of vehicles	21
" Saundatti		3
" Bail-Hongal		10
" Tolgi		1
" Pariswad		1
" Khanapur via Bagewadi & Pariswad		1
" Bail-Hongal to Manchnal		1

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The above mentioned permit is valid upto 6-1-1949, and the same will expire after the said period. Hence this application for renewal.

It is, therefore requested that you should be kind enough to renew the same permit and oblige.

The

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The necessary fees will be paid
and the permit in question is attached
herewith with the application.

Yours faithfully,
For the Belgaum Motor Transport Co. Ltd.,

Sd/-

Manager

Enclo : Permit P.S.Ts. 175

Manager,
The Belgaum Motor
Transport Co. Ltd.,
Belgaum.

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Exhibit "B" (Collectively)

To :

Messrs. The Belgaum Motor Transport Co. Ltd.,
Belgaum.

Subject:- Nationalisation of Road Transport:
Taking over of routes in Belgaum-
Dharwar Division.

Sir/Sirs,

A copy of Government Notification H.D. No. 4714/5 dated 31-8-1949, declaring intention of Government to cancel the permits specified in the Schedule annexed to the Notification granted in respect of Stage Carriages, in the area comprised in the Karnatak Region, is enclosed herewith.

Further, I have been directed to inform you that although the validity of your temporary State Carriage permits in respect of the routes mentioned in the above mentioned schedule extends beyond 30-11-1949, the same should be treated as valid upto 30-11-1949, unless otherwise intimated.

If you desire to hand over your vehicles and other assets to Government, you are requested to furnish a list 1942 and later models of motor vehicles and other assets which you desire to hand over to Government with their valuation of each article, before 15-10-1949, to enable this office to take further necessary action in the matter. It may be noted here that the vehicles and the assets will be purchased at a price to be fixed by a valuation Committee which will be appointed by Government for the purpose and that you will have the right to nominate to your representative on the Committee.

Yours faithfully,

Sd/-

Secretary,
Regional Transport Authority
K.R. Belgaum.

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Copy forwarded w.cs. to the Superintendent of Post Office, Belgaum/ Dharwar Division, together with a copy of the Government Notification, under reference.

Copy forwarded w.cs. to the District Magistrate, Belgaum/Bijapur/Dharwar/Karwar/Sangli, for information.

Copy forwarded w.cs. to the Income tax Officer "A" Ward, Belgaum.

Copy forwarded w.cs. to the District Superintendent of Police, Belgaum/Bijapur/Dharwar/Karwar/Sangli, for information.

Copy forwarded with compliments to the Provincial Motor Transport Controller, State Transport, Bombay for information, with reference to his letter No. ST,405/9/ Secy/ 16299.

HOME DEPARTMENT

Bombay Castle, 31st Aug : 1949.

Motor Vehicles Act, 1939.

No. 4714/5. In exercise of the powers conferred by sub-section (1) of section 43 of the Motor Vehicles Act, 1939 (IV of 1939), and having regard to the provisions of clauses (a) to (d) of the said sub-section (1) and after having heard the representatives of the interests affected and having consulted the Provincial Transport Authority, Bombay and the Regional Transport Authority Karnatak Region, Belgaum, and the Government of Bombay is pleased to declare its intention to cancel the permits specified in the Schedule hereto annexed granted in respect of stage carriages in the area comprised in the Karnatak Region.

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No.	Permits held by	Routes operated.
3	The Belgaum Motor Transport Company Ltd., Belgaum.	1. Belgaum- Dharwar 2. Belgaum- Tolgi 3. Belgaum- Khanpur via 4. Bagewadi Bareshwad 4. Belgaum- Saundatti 5. Belgaum- Bailhongal via Bagewadi 6. Belgaum- Bailhongal via Nasargi, Murgod. 7. Bailhongal- Saundatti 8. Bailhongal- Nandgad. 9. Bailhongal- Upinbetgeri 10. Belgaum- Gokak 11. Belgaum- Munoli via Nasarigi, Yergatti 12. Belgaum- Deshnur 13. Bailhongal- Gokak via Yergatti.

By order of the Governor of Bombay

V.T. DEHEJIA

Secretary to Government.

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(24)

EXHIBIT "C"

R.P.A.D.

No. 953/4-B.K.R. of 1950.

Office of the Regional Transport Officer,
Karnatak Region,
Belgaum, 1st February 1950.

To :

Messrs. Belgaum Motor Transport Company Ltd.,
Belgaum.

Subject:- Nationalisation of Bus services.
taking over of routes.

Sir/Sirs,

This is to inform you that it is likely that the State Transport may take over the services operated by you on the following routes or any portions thereof from 1st March 1950. The Divisional Controller, State Transport, Belgaum Division, will address you separately regarding interviews and appointments of your employees in the State Transport. In the meanwhile, you are requested to furnish this office within seven days from the date of receipt hereof triplicate copies of the fare and time tables in respect of your services on the following routes or any portions thereof.

S. No. Route

1. Belgaum-Bailhongal-Saundatti
2. Dharwar-Saundatti-Munoli-Yergatti-Gokak Rd. Station.
3. Belgaum-Yergatti-Ramadurg-Bagalkot
4. Yergatti-Bagalkot
5. Saundatti-Ramadurg.
6. Belgaum- Savantwadi
7. Savantwadi-Vengurla
8. Savantwadi- Amboli-Ajra
9. Savantwadi- Danoli.
10. Belgaum-Deshnur

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11. Belgaum- Ankalgi
12. Belgaum- Gokak
13. Belgaum- Parishwad.
14. Belgaum- Tolgi.
15. Bailhongal-Kittur via Bagewadi
16. Belgaum-Dharwar via Nesargi, Murgod
17. Belgaum-Alanavar via Nesargi, Murgod.
18. Belgaum-Bailhongal via Nesargi, Murgod.
19. Bailhongal-Gokak via Nesargi, Murgod, Yergatti
20. Chandargi-Sureban via Ramadurg.
21. Belgaum- Dharwar.

Yours faithfully,

Sd/-

Secretary
Regional Transport Authority, K.R.
Belgaum.

- 1) Under Chapter IV of the Motor Vehicles Act 1939 transport authorities have been constituted by Government consisting of official and non-official members to discharge the obligations enjoined in the Chapter. The main function of these transport authorities is to control the operation of transport vehicles through a system of permits.
- 2) Regional Transport Authorities can issue permits of various types. Under Sec.47 the Regional Transport Authority can grant a permit for stage carriages taking into consideration the various matters inter-alia -
 - i) The interest of the public generally.
 - ii) Advantages to the public of the service to be provided.
 - iii) Benefit to any particular locality or localities etc.
- 3) If a permit is rejected there is a provision under the act for the aggrieved party to file an appeal to the appropriate authority prescribed in the act. In rule 76 of the B.M.V. rules the appellate authority to hear appeals against grant or refusal of permits is the Provincial Transport Authority and there is also provision for revisionary appeal which lies with Govt. if the party is aggrieved by the decision of the appellate authority.
- 4) Under Sec.58 a permit is to be granted for any period between 3 to 5 years.
- 5) Under Sec.62 a temporary permit can be issued either for casual purpose or pending disposal of the application for regular permits for any period upto four months.

6) Under Sec.57 an application is to be submitted for a regular permit atleast 6 weeks before the date on which it is intended to start the operation of the service.

7) Under Sec.43 of the M.V.Act Government has the responsibility to control the road transport in such a manner as to -

- a) Provide advantages to the public, trade and industry.
- b) Coordinate road and rail transport.
- c) Prevent deterioration of the road system.
- d) Prevent uneconomic competition among transport operators.

8) In pursuance of these obligations mentioned in para 7 Government considered various possibilities of re-organising transport to achieve the above objectives. The Scheme of nationalisation of road transport was considered by Govt. as the most suitable method of improving the transport system of the Province in the public interest. The scheme was notified in the press on the 14th January 1947 and public opinion was invited. It was further submitted for the consideration of the Legislative Assembly and Legislative Council. Both the houses approved of the scheme. The approval of the legislature was communicated to Government vide Legislative Department No.3112, dated 20th October 1947. The scheme was also referred to the Provincial Transport Authority and Regional Transport Authorities ~~and the~~ of regions, and all Regional Transport Authorities and the Provincial Transport Authority approved the scheme of nationalisation. The following is an extract from the letter received from the Secretary, Regional Transport Authority, Karnatak Region, embodying decision of the Regional Transport Authority, Karnatak Region - "The policy of nationalisation of passenger services in the

rural areas of this region is approved by this Board and in fact it wants this policy to be executed as quickly as possible in this region" - decision of the Board meeting held on 25-5-48.

9) The draft of scheme of nationalisation of passenger service in rural areas in the Province of Bombay was published for the information of persons likely to be affected thereby under Home Department No.638/5, dated 14th January, 1947 and notice was given that Govt. of Bombay would take up for consideration the said draft scheme one month after the date of the publication in the Bombay Government Gazette.

10) Objections or suggestions which were to be received by the Provincial Motor Transport Controller, Industrial Assurance Building, Churchgate, Bombay from any person with respect to the said draft within the prescribed period were to be considered ~~for~~ by Govt.

11) The draft scheme was taken for consideration by the Government and the Assembly resolved to accord sanction to the proposal of the Bombay Government to nationalise the road transport service throughout the Province with a view.

- a) to increase the operation efficiency, relating to the existing services,
- b) to ensure that they are run in the interest of the public and
- c) to secure proper co-ordination between road and rail transport.

12) The Assembly also directed that the following principles should be observed by Government while implementing this scheme.

- d) A system of Central and Local Advisory Council should be devised to ensure that this work is properly guided by public opinion.

- ii) A minority interest should be allotted to the Railways to assist in the adequate integration of road and rail transport.
 - iii) All assets that may be acquired from transport operators should be purchased at a fair valuation.
 - iv) Compensation shall be payable to operators whose permits are unilaterally terminated by Government before their expiry.
- 13) It will thus be observed that:
1. The scheme of nationalisation was introduced in the public interest.
 2. The scheme was given the widest publicity.
 3. The Provincial Transport Authority and Regional Transport Authorities were consulted and the interests affected were also given adequate scope to ventilate their views.
 4. The scheme of nationalisation was then submitted to the Assembly and both houses approved of it.
 5. The Legislature directed Govt. to implement the scheme keeping in view the various principles enumerated above.
- 14) To facilitate the scheme of nationalisation of passenger Transport the M.V. Act 1939 was amended in 1947 by the Provincial Legislature. This was published after having received the assent of the Governor General in the Bombay Government Gazette on the 23rd March, 1947. Before this bill was introduced it had been circulated for the information of the public, it had been given wide publicity and the intention and the purpose of the amendment had been adequately publicised. All those who had any grievances or were likely to be affected, were given adequate opportunity to ventilate their grievances, if any.

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15) In pursuance of the procedure laid down under the amended section 43 of the Motor Vehicles Act., Government issued intentional notice notifying the intention of Government to cancel the permits of the operators who held permits to operate services on the particular routes to which Government decided to extend the nationalised services from time to time. Accordingly an intentional notice was issued on the 31-9-1949 (Bombay Government Gazette Part 4-A pages 831 to 840) which inter-alia embodied the names of the petitioners and the routes operated by them. In accordance with these provisions of section 43 a notice actually to cancel the permits was to be issued by Government after the lapse of at least three months from the date of the publication of the intentional notice but in the meantime Government established a statutory Corporation in accordance with the provisions of the Section 3 of the Road Transport Corporation Act. 1948. According to this notification (No.1780/5, dated 16-11-49) the Corporation Board has been established and is functioning as a trading Corporation. Government therefore decided that as the administration of the State Transport had been transferred to the Statutory Corporation it would not be appropriate to follow the procedure laid down under the amended Section 43 and cancel the permit and therefore it was decided that the State Transport Corporation should apply for regular permits in the ordinary manner to the appropriate authorities so that the State Transport could claim the grant of permits in preference to the existing operators on the grounds such as -

1) Superior organisation,

2) unlimited resources to provide amenities to the travelling public which the existing

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operators did not provide or could never be expected to provide.

3) Whatever advantages accrue from the operation of services revert entirely to the public.

16) Permits are issued for a specific period under Section 58 or Section 62. This connotes that no right legal or equitable is created in the permit holder for a perpetual permit. Permits are renewed under Section 58(2) but an application for renewal is to be treated under this clause as if they are for new permits which confirms the above view that a permit holder cannot claim a renewal as of right. Further the proviso under Sub-clause 2 of Section 58 provides that other conditions being equal, the application for renewal is to be given preference over new applications for permits. These are the conditions under which permits are granted or renewed. The granting authority is the R. T. A. If a party applies for renewal, and the renewal is refused it can appeal under Section 64(a) to the appellate authority prescribed under the act which is the appellate committee of the Provincial Transport Authority. It will thus be observed that the petitioner, if he were aggrieved could have appealed to the Provincial Transport Authority (if his application for renewal had been rejected) within 30 days as prescribed under rule 76 of the B.M.V. Rules.

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17. In the case of M/s Belgaum Motor Transport Co. Ltd., the following points are worth considering -

- a) The original regular permit PSTS No.175 expired on 6-1-49.
- b) They applied on 5-9-48 requesting renewal.
- c) On 23-12-48 the petitioner applied in the P.Temp. A form for a temporary permit from 7-1-49.
- d) A temporary permit was issued for 4 months from 7-1-49 to 6-5-49.
- e) Subsequently temporary permits were issued for 4 months each time regularly.
- f) The last application for temporary permit for 4 months was received on 6-9-49 and a temporary permit was granted from 7-9-49 to 6-1-50.
- g) The next application for temporary permit was received on 10-12-49 for a period of 4 months from 7-1-50 to 6-5-50 but a temporary permit was granted only from 7-1-50 to 31-1-50.
- h) Subsequently application dtd. 21-1-50 was received for a further period and a temporary permit was granted from 1-2-50 to 28-2-50.
- i) The last application was received on 31-1-50 for temporary permit from 1-3-50 to 31-3-50 but a temporary permit has been sanctioned from 1-3-50 to 31-3-50.

18) In this case an important fact is that in response to the letter of the Regional Transport officer dtd.20-9-49 wherein the intention of Government to nationalise transport was communicated and the company was asked to furnish a list of assets of the company

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which it would like to sell to Government at price that would be fixed by the valuation committee appointed by Government. The firm actually furnished a list of the assests which obviously indicated that they acquiesced and in the matter of termination of that permit from the date on which the State Transport was to take over. Further in each case of grant of pemporary permit a condition was attached to the permit to the effect that the pemporary permit would be effective upto the date on which the State Transport would take over.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY AND INHERENT JURISDICTION.

Civil Application No. 328 of 1950.

In the matter of Motor Vehicles Act 1939

Motor Vehicles (Bombay Amendment) Act, 1

and

The Road Transport Corporation Act of 194

The National Motor Transport Company Limited,)
a company registered under the Indian Companies)
Act 1913 and having its registered office at)
Belgaum District Belgaum) - Petitioners

Vs.

1. The State of Bombay)
2. The Provincial Transport Officer of the)
Government of Bombay having his office at)
Churchgate, Bombay.)
3. The Regional Transport Authority Karnatak)
Region, Belgaum being a body constituted)
under the Motor Vehicles Act 1939.) - Respondents

To

The Hon'ble Chief Justice and the other
Judges of this Honourable Court.

The humble Petition of the Petitioners abovenamed humbly Sheweth:-

1. The Petitioners are a company registered under the Indian Companies Act, 1913 and having their registered office at Belgaum in District Belgaum. Respondent No. 2 is the officer of Respondent No. 1 in charge of the administration of the Motor Vehicles Act, 1939 and Respondents No. 3 is the authority constituted under the said Act.

2. Prior to 1943 several persons carried on business of plying Motor buses for carriage of passengers on different routes in the southern part of the State of Bombay. Acting under the directions given from time to time by the authorities administering the Motor Vehicles Act 1939 (hereinafter referred to as "the said Act")

The said persons firstly formed themselves into a Union and thereafter in the year 1943 promoted the Petitioners' Company with themselves as its members for the purposes of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The Petitioners took over the said businesses and have been carrying on the business of Motor Transport on different routes in the southern part of the State of Bombay. All the members of the

Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage Permit No.P. St S. 178(1-34) by the authorities under the said Act of a duration contemplated by section 58 of the Act and the said Permit was renewed to the Petitioners under section 58 sub-clause 2 and the duration of the last such renewed permit expired on 6-1-1949.

4. On 2nd September 1948 as required under law the Petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for renewal of their aforesaid Permit expiring on 6-1-1949 a copy of the said application is annexed hereto and marked as Exhibit 'A'. The said officer acting under the Ex. A orders of the Respondents did not proceed with the said application in accordance with the provisions of the sections 57 and 58 of the said Act but renewed the Permit for Stage Carriage from time to time for a duration only of a period of four months at a time upto 6-1-1950 and thereafter from 7-1-1950 to 31-1-1950, from 1-2-1950 to 14-2-1950 and the period was ~~extended~~ up to 28-2-1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date forwarded to the Petitioners a copy of the Government Notification, Home Department, No. 4714/5, dated 31-8-1949 which declared the intention of the Government to cancel the Permits specified in the Schedule annexed to that Notification which included the Permit of the Petitioners and proceeded to state that that officer was directed to inform the Petitioners that although the validity of the Petitioners' Temporary Permit extended beyond 30-11-1949 the same should be treated as valid upto 30-11-1949. Hereto annexed and marked Exhibit 'B' is a copy of the said letter and the relevant extracts of the said Notification No. 4714/5.

Ex. 'B'

6. The Government Notification No. 4714/5, aforesaid was purported to be issued in exercise of the powers conferred by sub-section (1) of section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the Permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of sub-section (1) aforesaid and that Government had

Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage Permit No.P. St S. 178(1-34) by the authorities under the said Act of a duration contemplated by section 58 of the Act and the said Permit was renewed to the Petitioners under section 58 sub-clause 2 and the duration of the last such renewed permit expired on 6-1-1949.

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20/11/49
heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and Regional Transport Authority, Belgaum. The Petitioners state that the Petitioners and several other owners of transport business in the Karnatak Region were vitally affected by the powers exercised by the Government and by the Notification aforesaid and yet no representative of the Petitioners was heard as stated in the said Notification and that the Petitioners on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification, and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary, Regional Transport Authority, Belgaum, by his letter dated 29-11-1949 stated that the Petitioners had been granted a temporary extension of one month from 1-12-1949 in respect of the Petitioners' Temporary Permit. By two letters one dated 30-12-1949 from the Secretary the Regional Transport Authority, Belgaum, and ~~and~~ another dated 31-12-1949 from the Secretary, Regional Transport Authority, Poona, the Petitioners were given notices worded in identical terms of the fact that as the State Transport had applied for permit on the routes hitherto operated by the Petitioners it was likely that the Petitioners may not be able to operate on those routes after 31-1-1950. By his letter dated 20-1-1950 the Secretary, Regional Transport Authority, Belgaum, informed the Petitioners that the date of taking over bus services by the State Transport had been postponed to 15-2-1950 and that the Petitioners may operate their bus services upto 14-2-1950 and that it was likely that the Petitioners may not be able to operate the said services after 14-2-1950. Hereto annexed and collectively marked Ex. 'C' are copies of the aforesaid correspondence.

8. The Petitioners state that the action of the Respondent No. 1 in issuing the said Notification No. 4714/5, has been mala-fide inasmuch as Respondent No. 1 or the other respondents have not at all heard the representatives of the interests affected by the said Notification. The Petitioners submit that the said

Notification is illegal, void and in operative. The Petitioners further submit that the conduct of the officers of the Government including the Secretary, Regional Transport Authority, Belgaum, and of the Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the Directions given to them from time ^{time} to ~~by~~ Respondent No. 1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said officer and authority refused to consider the application of the Petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in sections 57 and 58 and to renew the Permit of the Petitioners for a period not less than three years and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the Permit of the Petitioners for very short durations as stated in paragraph 7 hereof. The aforesaid conduct of the Respondents and of the officers of the Respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past 3 years the Respondent No. 1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act, Act XXXII of 1948 Respondent No. 1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No. 1780/5, dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying motor buses for carrying passengers to the said Corporation.

10. At all times material to this Petition the 2nd Respondent has been the Provincial Head of the Officers administering the said Act and has also held the position of the Provincial ^{head} ~~head~~ of the Transport business carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the

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1st Respondent calculated to oust and supplant the entire business of the Motor Transport by private individuals the 2nd Respondent and the officers subordinate to him as well as the Provincial Transport Authority and the Respondent No. 3 have acted in accordance with the directions of the 1st Respondents given to them and have not used any independent judgment of their own in deciding matters relating to the Permit of the Petitioners and the renewal thereof since 6-1-1949 and their decisions have been based and prejudiced. The Respondents 1 and 2 have in the above matters & from time to time given directions to the Officers and to Respondent No. 3 entrusted with the administration of the said act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the Petitioners and have intentionally and deliberately violated and circumvented the provisions of the said Act as well as of the Road Transport Corporation Act relating to the prescribed amount of the compensation payable to the Petitioners in respect of the taking over of their business by passing such orders as will reduce to minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its goodwill under the said Act as well as the Road Transport Corporation Act.

11. At the instance of the 1st and 2nd Respondents, the 3rd Respondents addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said ~~int~~ letter dated 20-9-1949 and the letters contained in Exhibit 'C' and also renewed their permits on a Temporary basis and between 1-12-1949 to the date of this Petition, the renewals were all made for the same periods as the renewals of the Petitioners' permit. The obvious object of the said letter dated 20-9-1949 and the said letters contained in Exhibit 'C' and similar letters addressed to others was that as soon as the buses of the State Transport or of the said Corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd Respondents would cancel the subsisting permits of the private operators and would refuse to renew any permit which had expired. The Petitioners state that the temporary renewals of the permits of the Petitioners and others in the

area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article 14 of the Constitution of India the Petitioners are entitled to a treatment before the law and protection of the law equal with the Transport business carried on by the 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19 (g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the permit of the Petitioners the Petitioners have had no fair trial and the Petitioners apprehend that they have no chance of a fair trial of their case at the hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19 (g) of the Constitution are violated by the Respondents and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to violate the fundamental rights of the Petitioners.

14. The Petitioners state that with the object of totally ousting the Petitioners from their business and in its ^{stead} ~~stated~~ carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the Petitioners of their business and any right to claim compensation for goodwill, loss of business and capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the permit of the Petitioners and have threatened to cancel the same from 1-3-1950 and misused the powers under and provisions of the said Act.

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15. The Petitioners submit that the functions to be discharged by the 2nd Respondent and the officers and bodies subordinate to him in the matter of renewal of Stage Carriage Permit of the Petitioners and of taking over and ascertaining compensation for the business of the Petitioners are judicial functions and that the 2nd Respondent and the officers subordinate to him including the Provincial Transport Authority, Bombay, and Respondent No. 3, have acted in accordance with the directions of the 1st and 2nd Respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

15(a). The Petitioners submit that it is in the interest of justice that this Hon'ble Court should issue a Writ of prohibition or make other suitable order against the respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No. 4714/5, dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of their existing business of transport by Stage Carriages.

16. The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the Writ of Certiorari calling for the records of proceedings relating to the permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

17. The Petitioners submit that it is in the interest of justice that the Respondents Nos. 3 be ordered by an order and mandatory injunction of this Hon'ble Court to renew the Permit for Stage Carriages of the Petitioners for a period not less than three years.

18. The Petitioners submit that it is necessary in the interest of justice that the Respondents be prohibited by a Writ of Prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said Act to cancel the Stage Carriages permit of the Petitioners and from passing x

any orders other than the order renewing the Stage Carriages Permit of the Petitioners and from doing any act calculated to prejudicially affect the business of Transport by Stage Carriages carried on by the Petitioners.

19. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its power of superintendence call for the records of proceedings relating to the Stage Carriages Permit of the Petitioners and pass such orders as justice of the case may require.

20. The Petitioner say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them obtain redress.

21. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners.

22. The orders passed by and directions given by the Respondents Nos. 1 and 2 were all passed and given in the City of Bombay and the orders passed by the Respondents 3 and the officers and bodies subordinate to the Respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this Petition.

23. The Petitioners, therefore, pray :-

(a) That this Hon'ble Court will be pleased to issue a Writ of Prohibition or other suitable order against the Respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification No. 4714/5, dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of the existing business of transport by Stage

- (b) That this Hon'ble Court may be pleased to issue a Writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority, Belgaum relating to the permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary.
- (c) That this Hon'ble Court will be pleased to issue a ~~mandatory~~ ^{mandatory} injunction against the Respondents No.3 and order them to renew the permits for Stage Carriages of the Petitioners for a period not less than three years.
- (d) That in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for the records of proceedings relating to the Stage Carriages Permit of the Petitioners and pass such orders as justice of the case may require;
- (e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the Permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by Stage Carriages carried on by the Petitioners, and may further be ordered to renew the Permit.
- (f) That such order as to this Hon'ble Court may seem fit be made as regards the Costs of the Petitioners of this Petition;
- and
- (g) That the Petitioners may have such further and other reliefs as the nature of the case may require.

(Usual affirmation clause follows)

HMTC 209/48

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2nd September, 1948,

To

The Regional Transport Officer,
Karnatak Region,
Belgaum.

Sub:- Renewal of Permit No. P.St. S. 178 (1-34).

Sir,

Our Permit No. P.St. S. 178(1-34) expires on 6-1-1949; therefore we request Your Honour to kindly renew the same. We give below the details of the said permit :-

<u>S. No.</u>	<u>R.No.</u>	<u>Route.</u>	<u>B Parts.</u>
1.	30 BGM	Belgaum-Kolhapur.	15
2.	40 "	Belgaum-Nipani	5
3.	41 "	Belgaum-Sankeshwar.	1
4.	59 "	Belgaum-Daddi ~~via~~ Kattargi	1
5.	67 "	Belgaum-Sangli via Sankeshwar, Chikodi.	5
6.	69 "	Belgaum-Chikodi via Sankeshwar.	2
7.	70 "	Belgaum-Ajara via Sankeshwar.	2
8.	71 "	Belgaum-Bollad Bagowadi.	1
9.	115 "	Belgaum-Athani via Sankeshwar, Chikodi, Shobal.	2

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Yours obediently,
For the National Motor Transport
Co., Ltd.

Sd/-

Managing Director

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- 1) Under Chapter IV of the Motor Vehicles Act 1939 transport authorities have been constituted by Government consisting of official and non-official members to discharge the obligations enjoined in the Chapter. The main function of these transport authorities is to control the operation of transport vehicles through a system of permits.
- 2) Regional Transport Authorities can issue permits of various types. Under Sec.47 the Regional Transport Authority can grant a permit for stage carriages taking into consideration the various matters inter-alia -
 - i) The interest of the public generally.
 - ii) Advantages to the public of the service to be provided.
 - iii) Benefit to any particular locality or localities etc.
- 3) If a permit is rejected there is a provision under the act for the aggrieved party to file an appeal to the appropriate authority prescribed in the act. In rule 76 of the B.M.V. rules the appellate authority to hear appeals against grant or refusal of permits is the Provincial Transport Authority and there is also provision for revisionary appeal which lies with Govt. if the party is aggrieved by the decision of the appellate authority.
- 4) Under Sec.58 a permit is to be granted for any period between 3 to 5 years.
- 5) Under Sec.62 a temporary permit can be issued either for casual purpose or pending disposal of the application for regular permits for any period upto four months.

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- 6) Under Sec.57 an application is to be submitted for a regular permit atleast 6 weeks before the date on which it is intended to start the operation of the service.
- 7) Under Sec.43 of the H.V.Act Government has the responsibility to control the road transport in such a manner as to -
- a) Provide advantages to the public, trade and industry.
 - b) Coordinate road and rail transport.
 - c) Prevent deterioration of the road system.
 - d) Prevent uneconomic competition among transport operators.
- 8) In pursuance of these obligations mentioned in para 7 Government considered various possibilities of re-organising transport to achieve the above objectives. The Scheme of nationalisation of road transport was considered by Govt. as the most suitable method of improving the transport system of the Province in the public interest. The scheme was notified in the press on the 14th January 1947 and public opinion was invited. It was further submitted for the consideration of the Legislative Assembly and Legislative Council. Both the houses approved of the scheme. The approval of the legislature was communicated to Government vide Legislative Department No.3112, dated 20th October 1947. The scheme was also referred to the Provincial Transport Authority and Regional Transport Authorities ~~naikika~~ of regions, and all Regional Transport Authorities and the Provincial Transport Authority approved the scheme of nationalisation. The following is an extract from the letter received from the Secretary, Regional Transport Authority, Karnatak Region, embodying decision of the Regional Transport Authority, Karnatak Region - "The policy of nationalisation of passenger services in the

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rural areas of this region is approved by this Board and in fact it wants this policy to be executed as quickly as possible in this region" - decision of the Board meeting held on 25-5-48.

9) The draft of scheme of nationalisation of passenger service in rural areas in the Province of Bombay was published for the information of persons likely to be affected thereby under Home Department No.638/5, dated 14th January, 1947 and notice was given that Govt. of Bombay would take up for consideration the said draft scheme one month after the date of the publication in the Bombay Government Gazette.

10). Objections or suggestions which were to be received by the Provincial Motor Transport Controller, Industrial Assurance Building, Churchgate, Bombay from any person with respect to the said draft within the prescribed period were to be considered ~~for~~ by Govt.

11) The draft scheme was taken for consideration by the Government and the Assembly resolved to accord sanction to the proposal of the Bombay Government to nationalise the road transport service throughout the Province with a view.

- a) to increase the operation efficiency relating to the existing services,
- b) to ensure that they are run in the interest of the public and
- c) to secure proper co-ordination between road and rail transport.

12) The Assembly also directed that the following principles should be observed by Government while implementing this scheme.

- 1) A system of Central and Local Advisory Council should be devised to ensure that this work is properly guided by public opinion.

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~~2-1-1947~~

- ii) A minority interest should be allotted to the Railways to assist in the adequate integration of road and rail transport.
- iii) All assets that may be acquired from transport operators should be purchased at a fair valuation.
- iv) Compensation shall be payable to operators whose permits are unilaterally terminated by Government before their expiry.

It will thus be observed that:

- 1. The scheme of nationalization was introduced in the public interest.
- 2. The scheme was given the widest publicity.
- 3. The Provincial Transport Authority and Regional Transport Authorities were consulted and the interests affected were also given adequate scope to ventilate their views.
- 4. The scheme of nationalisation was then submitted to the Assembly and both houses approved of it.
- 5. The Legislature directed Govt. to implement the scheme keeping in view the various principles enumerated above.

14) To facilitate the scheme of nationalisation of passenger Transport the M.V. Act 1939 was amended in 1947 by the Provincial Legislature. This was published after having received the assent of the Governor General in the Bombay Government Gazette on the 23rd March, 1947. Before this bill was introduced it had been circulated for the information of the public, it had been given wide publicity and the intention and the purpose of the amendment had been adequately publicised. All those who had any grievances or were likely to be affected, were given adequate opportunity to ventilate their grievances, if any.

15) In pursuance of the procedure laid down under the amended section 43 of the Motor Vehicles Act., Government issued intentional notice notifying the intention of Government to cancel the permits of the operators who held permits to operate services on the particular routes to which Government decided to extend the nationalized services from time to time. Accordingly an intentional notice was issued on the 31-3-1949 (Bombay Government Gazette Part 4-A pages 831 to 840) which inter-alia embodied the names of the petitioners and the routes operated by them. In accordance with these provisions of section 43 a notice actually to cancel the permits was to be issued by Government after the lapse of at least three months from the date of the publication of the intentional notice but in the meantime Government established a statutory Corporation in accordance with the provisions of the Section 3 of the Road Transport Corporation Act. 1948. According to this notification (No.1780/5, dated 16-11-49) the Corporation Board has been established and is functioning as a trading Corporation. Government therefore decided that as the administration of the State Transport had been transferred to the Statutory Corporation it would not be appropriate to follow the procedure laid down under the amended Section 43 and cancel the permit and therefore it was decided that the State Transport Corporation should apply for regular permits in the ordinary manner to the appropriate authorities so that the State Transport could claim the grant of permits in preference to the existing operators on the grounds such as -

1) Superior organisation,

2) unlimited resources to provide amenities to the travelling public which the existing

operators did not provide or could never be expected to provide.

3) Whatever advantages accrue from the operation of services revert entirely to the public.

16) Permits are issued for a specific period under Section 53 or Section 62. This connotes that no right legal or equitable is created in the permit holder for a perpetual permit. Permits are renewed under Section 53(2) but an application for renewal is to be treated under this clause as if they are for new permits which confirms the above view that a permit holder cannot claim a renewal as of right. Further the proviso under Sub-clause 2 of Section 53 provides that other conditions being equal, the application for renewal is to be given preference over new applications for permits. These are the conditions under which permits are granted or renewed.. The granting authority is the R. T. A. If a party applies for renewal, and the renewal is refused it can appeal under Section 64(a) to the appellate authority prescribed under the act which is the appellate committee of the Provincial Transport Authority. It will thus be observed that the petitioner, if he were aggrieved could have appealed to the Provincial Transport Authority (if his application for renewal had been rejected) within 30 days as prescribed under rule 76 of the B.M.V. Rules.

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17.) In the case of National Motor Transport Co. Ltd., the original regular permit granted to the company No. PSTS 178 expired on 6-1-49.

- a) On 2-9-48 the company applied for renewal, but no PSTS form which is the prescribed form for the renewal of the permit, was submitted.
 - b) The first application for temporary permit in form P Tem. A dated 31-12-48 was submitted and a temporary permit was granted for 4 months from 7-1-49 to 6-5-49.
 - c) Subsequently temporary permits were issued for 4 months each time regularly.
 - d) The last application for temporary permit for 4 months was received on 1-8-49 and a temporary permit valid upto 6-1-50 was issued.
 - e) The next application for temporary permit was received on 1-12-49 for 4 months from 7-1-50 to 6-5-50 but a temporary permit was issued only upto 31-1-50.
 - f) Further extension was requested on 16-1-50 for a renewal of temporary permit. The petitioner was granted a temporary permit upto 14-2-50.
 - g) The next application was received for renewal on 1-2-50 and a temporary permit was issued upto 28-2-50.
 - h) The last application for a temporary permit was received on 16-2-50 but a temporary permit was not granted after 1-3-50.
 - i) Two important points are worth noting
- (a) The petitioners themselves asked for time upto 1-3-50 and they have subsequently mentioned that the State Transport could take over from the 1st of march 1950.

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(6) Secondly this firm in response to R.T.O's letter of 20-9-49 wherein the intention of Government's taking over the services was communicated and they were asked to furnish a list of assets they would like to sell to Government. They furnished a list of the vehicles with all the details which clearly emphasises the fact that they have accepted the position and they have no grievance as such.

233 corrected & signed
24/1/51
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In the High Court of Judicature at Bombay.

Ordinary and Inherent Jurisdiction.

Civil Application No. 329 of 1950.

In the matter of Motor Vehicles Act, 1939 Motor
Vehicles (Bombay Amendment) Act, 1947.

and

The Road Transport Corporation Act, 1948.
Company Ltd. an)
The Chavan Motor Transport/

incorporated Company registered under the
Indian Companies Act, 1913 having its regis-
tered office at Belgaum in the State of
Bombay.

Petitioners.

Versus.

1. The State of Bombay.
2. The Provincial Transport Officer, of the
Government of Bombay having his office at
~~Churkhyaga~~ Churchgate in Bombay.
3. The Regional Transport Authority,
Karnatak Region, Belgaum being a body
constituted under the Motor Vehicles Act,
1939.

Respondents.

To,

The Hon'ble Chief Justice and the other Judges of
this Hon'ble Court.

The humble petition of the Petitioners above named
Humbly sheweth:-

1. The petitioners are a company registered under the
Indian Companies Act, having their office at Belgaum.
Respondent No.2 is the officer of Respondent No.1 in charge
of the administration of the Motor Vehicles Act and
Respondents No.3 is the authority constituted under the
said Act.

2. Prior to 1943 several persons carried on business of
plying motor buses for carriage of passengers on different
routes in the Southern part of the State of Bombay. Acting
under the directions given from time to time by the
Authorities administering the Motor Vehicles Act, 1939

(hereinaft

(hereinafter referred to as the said Act) the said persons in the year 1943 promoted the Petitioners' company with themselves as members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The petitioners took over the said businesses and have been carrying on the business of Motor Transport of different routes in the Southern part of the State of Bombay. All the members of the petitioners are domicile citizens of India.

3. After the businesses were taken over by the petitioners as aforesaid the petitioners were granted State Carriage permit No. P.St. S.186(1-11) by the authorities under the said Act of a duration contemplated by section 58 of the Act and the said permit was renewed to the petitioners under section 58 sub-clause 2 and the duration of the last such renewed permit expired on 6th January 1950.

4. As required under law, on the 4th November 1949 the petitioners applied to the Regional Transport Officer, Karnatak Region, Belgaum for renewal of their aforesaid permit expiring on 6th January 1950. A copy of the said application is annexed hereto and marked Exhibit "A". The said Officer acting under the orders of the respondents did not proceed with the said application in accordance with the provisions of the sections 57 and 58 of the said Act but renewed the permit for Stage Carriages from time to time for very short durations from 7-1-1950 to 31-1-1950 and from 1-2-1950 to 28-2-1950, and ^{from} 1-3-1950 to 31-3-1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date forwarded to the petitioners a copy of the Government Notification Home Department No.4714/5, dated 31-8-1949 which declared the intention of the Government to cancel the permits specified in the schedule annexed to that Notification which included the permit of the petitioners and proceeded to state that that officer was directed to inform the petitioners that although the validity of the petitioners Temporary permit extended beyond 30-1-1949 the same should be treated as valid upto

30-11-1949. Hereto annexed and marked Exhibit "B" is a copy of the said letter and the relevant extracts of the said Notification No.4714/5.

6. The Government Notification No.4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub-section (1) of section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of sub-section (1) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and the Regional Transport Authority, Belgaum. The petitioners state that the Petitioner^s and several other owners of Transport business in the Karnatak Region were vitally affected by the powers exercised by the Government and by the Notification aforesaid and yet, no representative of the petitioners was heard as stated in the said Notification and that the petitioners on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary, Regional Transport Authority, Belgaum by his letter dated 1-2-1950 informed the petitioners that the State Transport may take over the services operated by the petitioners on the routes specified in the said letter or any portions thereof from 1-3-1950. Hereto annexed and marked Exhibit "C" is a copy of the aforesaid letter.

8. The petitioners state that the action of the Respondent No.1 in issuing the said Notification No.4714/5 has been malafide, in as much as Respondent No.1 or any other Respondents have not at all heard the representatives of the interests affected by the said Notification. The petitioners submit.

submit that the said Notification is illegal, void and inoperative. The petitioners further submit that the conduct of the officers of the Government including the Secretary, Regional Transport Authority, Belgaum and of the said Respondents 2 and 3 subsequent to the issue of the said Notification~~x~~ has been guided by the directions given to them from time to time by Respondent No.1 in pursuance of the declaration of intention contained in the said notification and that acting on the said directions the said officers and authority have refused to consider the ~~m~~ application of the petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in section 57 and 58 and to renew the permit of the petitioners for a period not less than three years, and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the permit of the petitioners for very short durations as stated in para. 4 thereof. The aforesaid conduct of the respondents and of the officers of the Respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

9. For about past three years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act, XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No.1780/5 dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this petition the 2nd respondent has been the Provincial Head of the officers administering the said Act and has also held the position of the Provincial

Head

24/01/50

~~Head of the office concerned administering the said road and~~
~~the operation of the Road Transport Act~~ Head of the Transport business

carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the 1st respondent calculated to oust and supplant the entire business of the Motor Transport by private individuals the 2nd respondent and the officers subordinate to him as well as the Provincial Transport Authority Bombay and Respondent No.3 have acted in accordance with the directions of the 1st respondent given to them and have not used any independent judgment of their own in deciding matters relating to the permit of the petitioners and the renewal thereof since 6th January 1950 and their decisions have been biased and prejudiced. The Respondents No.1 and 2 have in the above matters from time to time given directions to the officers and to respondent No.3 entrusted with the Administration of the said Act which have resulted in violation of the provisions of the said Act as to grant of renewal of the permit to the petitioners and have intentionally and deliberately violated and circumvented the provisions of the Corporation Act relating to the prescribed amount of said Act ~~xx~~ as well as of the Road Transport Compensation payable ~~payable~~ to the petitioners in respect of the taking over of their business by passing such orders as will reduce to a minimum or to nothing the amount of compensation payable to the petitioners in respect of their business and its good will under the said Act 11. That at the instance of the 1st and the 2nd respondents the 3rd respondent addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20-9-1949 and also renewed their permits on a temporary basis between 7-1-1950 to the date of this petition, the renewals were all made for the same periods as the renewals of the petitioners' permit. The obvious object of the said letter dated 20-9-1949 and similar letters addressed to others was that as soon as the buses of the State Transport or the said corporation were ready to start working in any area the Regional Transport Authority concerned acting under the directions of the 1st and 2nd respondents would cancel the subsisting permits of the private operators and would ~~cancel the subsisting permits~~ refuse to renew any permit

omission of one line.

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which had expired. The petitioners state that the temporary renewals of the permits of the petitioners and others in the area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article ~~12~~ 14 of the Constitution of India the petitioners are entitled to a treatment before the law and protection of the law equal with the Transport business and carried on by the ~~tax~~ 1st and 2nd respondents ~~and~~ with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19(g) of the Constitution of India the petitioners have the right to the freedom of carrying on the business of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the permit of the petitioners, the petitioner have had no fair trial and the petitioners apprehend, that they have no chance of a fair trial of their case at the hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19(g) of the Constitution are violated by the Respondent and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and after the Constitution of India came into force such of the provisions of the said Act as contraven the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to ~~xxx~~ violate the fundamental rights of the petitioners.

14. The petitioners state that with the object of totally ousting the petitioners from their business and in its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the petitioners of their business and any right to claim compensation for goodwill, loss of business and the

245 ~~2205~~
 capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the permit of the petitioners and have threatened to cancel the same from 1-3-1950, and misused the powers under the provisions of the said Act.

15. The petitioners submit that the functions to be discharged by the 2nd respondent and the officers and bodies subordinate to of the petitioners and of taking over and ascertaining him in the matter of renewal of State carriage permit/compensation for the business of the petitioners are judicial functions and subordinate to him including the Provincial Transport that the 2nd respondent and the officers/authority, Bombay and Regional Transport Authority, Respondent No.3 have acted in accordance with the directions of the 1st and 2nd respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by part III of the Constitution of India.

16. The petitioners submit that it is in the interests of justice that this Hon'ble Court should issue a Writ of prohibition or make other suitable order against the respondents ordering them or any of them not to do any act or pass any order based on the said Government Notification No.4714/5, dated 31-8-1949 and also not to do any act or pass any order which will have the effect of ousting the petitioners from or depriving them of their existing business of transport by stage carriages.

17. The petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the writ of certiorari calling for the records of proceedings relating to the permit for stage carriage of the petitioners before the Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and equitable.

18. The petitioners submit that it is in the interest of justice that the respondent No.3 be ordered by an order and a mandatory injunction of this Hon'ble Court to renew the permit for Stage carriage of the petitioners for a period, not less than three years.

19. The petitioners submit that it is necessary in the

247 3-1-1917

interest of justice that the Respondents be prohibited by a Writ of prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said Act to cancel the Stage/Carriage permit of the petitioners and from passing any orders other than the order renewing the stage carriage permit of the petitioners and from doing any act calculated to prejudicially affect the business of transport by stage carriages carried on by the petitioners.

20. The petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its powers superintendence call for the records of proceedings relating to the Stage Carriage permit of the petitioners and pass such orders as justice of the case may require.

21. The petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for herein and that the remedy applied for by them will be complete. The petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

22. Under the circumstances aforesaid the petitioners state that pending the hearing and final disposal of this petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of transport by Stage carriages carried on by the petitioners.

23. The ^{order} passed by and directions given by the respondents Nos. 1 and 2 were all passed and given in the City of Bombay, the orders passed by Respondent No.3 and the Officers and bodies subordinate to the Respondents were passed within the State of Bombay and this Hon'ble Court will have jurisdiction to entertain this petition.

24. The petitioners, therefore, pray.-

(a) That this Hon'ble Court will be pleased to issue a writ of prohibition or other suitable order against the respondents ordering them or any one of them not

249 25/7/49

to do any act or pass any order based on the said Government Notification No.4714/5 dated 31-7-1949 and also not to do any act or pass any orders which will have the effect of ousting the petitioners from or depriving them of the existing business of transport by stage carriages.

(b) That this Hon'ble Court may be pleased to issue a writ of certiorari calling for the records of proceedings pending before the Regional Transport Authority Belgaum relating to the permit for Stage carriages of the petitioners before this Hon'ble Court and after looking into the same to revise the orders hitherto passed and pass such orders and give such directions as may be just and necessary;

(c) That this Hon'ble Court will be pleased to issue a mandatory injunction against the Respondent No.3 and order them to renew the permits for stage carriage of the petitioners for a period not less than three years.

(d) That in the alternative in exercise of the power of superintendence this Hon'ble Court may be pleased to call for records of proceedings relating to the Stage Carriage permit of the petitioners and pass such orders as justice of the case may require;

(e) That this Hon'ble Court may be pleased to order that pending the hearing and final disposal of this petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage carriages carried on by the petitioners and may further be ordered to renew the permit;

(f) That such order as to this Hon'ble Court may seem fit be made as regards the costs of the petitioners of this petition;

and

(g) That the petitioners may have such further and

251 ~~72~~ 931

other relief as the nature of the case may require.

Petition drawn by)
Messrs. Gokhale Kale &)
Co., Attorneys-at-Law)

I, Yellappa Guruappa Chavan of Belgaum now temporarily residing at Girgaum a Chairman of the petitioners company able to depose to the facts of this petition do solemnly declare and state that what is stated in paragraphs 1, 2, 3, 4, 5 parts of 6 and 7 of the foregoing petition is true to my knowledge and what is stated in paragraphs parts of 6 and 7 paras. 8-22 is stated on information and belief and I believe the same to be true.

Solemnly declared at Bombay)
aforesaid this 23 day of) Sd/- - -
February, 1950. . .)

Sd/-
Petitioners' Attorneys.

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172-1
EXHIBIT "A".

THE CHAVAN MOTOR TRANSPORT CO.LTD.
(incorporated in India)

Chavan Building,
Ganpat Galli,

Ref. No. 98/49
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BELGAUM 4-11-1949.

To:
The Regional Transport Officer,
K.R. Belgaum.

Sir,

We beg to apply and request that.-

172(1-5)

Our, P.St.S. 186(1-11) Stage Carriage Permit
P.Pu.C. 172 (1-5).

going to be expired on 6-1-1950.

Hence request that to kindly renew the same;
the necessary fees will be paid in due course.

~~Thanking~~ Thanking you,

Yours faithfully,

Sd/-

for the Chavan Motor Transport
Co.Ltd., Belgaum.

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EXHIBIT "B".

R. P. A. D.

No.6941/4-B/KR of 49
Regional Transport Office,
Belgaum, 20th September 1949.

To:

M/s. Chavan Motor Transport Co. Ltd.,
Ganpat Galli, Belgaum.

Subject:- Nationalisation of Road Transport
Taking over of routes in Belgaum
Dharwar Division.

Sir,/Sirs,

A copy of Government Notification H.D.No.4714/5 dated 31-8-1949, declaring intention of Government to cancel the permits specified in the Schedule annexed to the Notification granted in respect of Stage carriage, in the area comprised in the Karnatak Region, is enclosed herewith.

Further, I have been directed to inform you that although the validity of your temporary Stage Carriage Permits in respect of the routes mentioned in the above mentioned schedule extends beyond 30-11-1949, the same should be treated as valid upto 30-11-1949, unless otherwise intimated.

If you desire to hand over your vehicles and other assets to Government, you are requested to furnish a list of 1942 and later models of motor Vehicles, and other assets which you desire to hand over to Government with their valuation of each article, before 15-10-1949, to enable this office to take further necessary action in the matter. It may be noted here that the vehicles and the assets will be purchased at a price to be fixed by a valuation committee which will be appointed by Government for the purpose and that you ^{will} have the right to nominate your representative on the Committee.

Yours faithfully,

Sd/-
Secretary,
Regional Transport Authority,
K.R.Belgaum.

Copy forwarded w.cs. to the Superintendent of Post Office, Belgaum Dharwar Division, together with a copy of the Government Notification under reference.

Copy forwarded w.cs. to the District Magistrate, Belgaum/Bijapur/Dharwar/Sangli, for information.

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Copy forwarded w.cs. to the Income Tax Officer, 'A' Ward, Belgaum.

Copy forwarded w.cs. to the District Superintendent of Police, Belgaum/Bijapur/Dharwar/Karwar/Sangli, for information.

Copy forwarded with compliments to the Provincial Motor Transport Controller, State Transport, Bombay for information with reference to his letter No. S.T.405/9/Secy./16299.

PART IV-A.

Rules and orders (other than those published in Parts I and I-A) made by the Government of Bombay under the Acts of Parliament and the Central Acts.

HOME DEPARTMENT.

Bombay Castle, 31st August
1949.

MOTOR VEHICLES ACT, 1949.

No.4714/5.- In exercise of the powers conferred by sub-section (1) of section 43 of the Motor Vehicles Act, 1939, (IV of 1939), and having regard to the provisions of clauses (a) to (d) of the said sub-section (1) and after having heard the representatives of the interests affected and having ~~heard the~~ consulted the Provincial Transport Authority, Bombay, and the Regional Transport Authority, Karnatak Region, Belgaum, the Government of Bombay is pleased to declare its intention to cancel the permits specified in the Schedule hereto annexed granted in respect of Stage Carriages in the area comprised in the Karnatak Region.

Schedule.

<u>No. Permits held by:</u>	<u>Routes operated:</u>
1. The Chavan Motor Transport Co. Ltd., Belgaum.	1. Belgaum-Thalakwadi. 2. Belgaum-Anmode. 3. Belgaum-Bagalkot via Yergatti, Kaladgi. 4. Belgaum-Ramdurg via Nesargi, Murgod. 5. Belgaum-Ankalgi via Sulebhaya 6. Dharwar-Anmode.

By order of the Governor of Bombay,

V.T.DEHEJIA,
Secretary to Government.

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EXHIBIT "C".

R.P.A.D.

No.953/4/B/K.R. of 1950.
Office of the Regional Transport
Officer,
Karnatak Region, Belgaum, 1st
February 1950.

To:
M/s. Chavan Motor Transport Company,
Ganpat Galli, Belgaum.

Subject :- Nationalisation of Bus Services;
Taking over of routes.

Sir/Sirs,

This is to inform you that it is likely that the State Transport may take over the services operated by you on the following routes or any portions thereof from 1st March 1950. The Divisional Controller, State Transport, Belgaum Division, will address you separately regarding interviews and appointments of your employees in the State Transport. In the meanwhile, you are requested to furnish this office within seven days from the date of receipt hereof triplicate copies of the fare and time tables in respect of your services on the following routes on any portions thereon.

S.No. Route.

1. Belgaum-Bailhongal-Saundatti
2. Dharwar-Saundatti-Munoli-Yergatti-Gokak-Gokak Rd. Stn.
3. Belgaum-Yergatti-Ramadurg-Bagalkot.
4. Yergatti-Bagalkot.
5. Saundatti-Ramadurg.
6. Belgaum-Savantwadi.
7. Savantwadi-Vengurla.
8. Savantwadi-Amboli-Ajra.
9. Savantwadi-Danoli.
10. Belgaum-Deshnur
11. Belgaum-Ankalgi
12. Belgaum-Gokak
13. Belgaum-Parishwad
14. Belgaum-Tolgi
15. Bailhongal-Kittur via Bagewadi
16. Belgaum-Dharwar via Nesargi, Murgod.
17. Belgaum-Alanavar via Nesarigi, Murgod.

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18. Belgaum-Bailhongal via Nesargi, Murgod.
19. Bailhongal-Gokak via Nesargi, Murgod, Yergatti
20. Belgaum-Dharwar.

Yours faithfully,

Sd/-

Secretary,
Regional Transport Authority, K.R.
Belgaum.

6) Under Sec.57 an application is to be submitted for a regular permit atleast 6 weeks before the date on which it is intended to start the operation of the service.

7) Under Sec.43 of the A.V.Act Government has the responsibility to control the road transport in such a manner as to -

- a) Provide advantages to the public, trade and industry
- b) Coordinate road and rail transport.
- c) Prevent deterioration of the road system.
- d) Prevent uneconomic competition among transport operators.

8) In pursuance of these obligations mentioned in para 7 Government considered various possibilities of re-organising transport to achieve the above objectives. The Scheme of nationalisation of road transport was considered by Govt. as the most suitable method of improving the transport system of the Province in the public interest. The scheme was notified in the press on the 14th January 1947 and public opinion was invited. It was further submitted for the consideration of the Legislative Assembly and Legislative Council. Both the houses approved of the scheme. The approval of the legislature was communicated to Government vide Legislative Department No.3112, dated 20th October 1947. The scheme was also referred to the Provincial Transport Authority and Regional Transport Authorities ~~and~~ of regions, and all Regional Transport Authorities and the Provincial Transport Authority approved the scheme of nationalisation. The following is an extract from the letter received from the Secretary, Regional Transport Authority, Karnatak Region, embodying decision of the Regional Transport Authority, Karnatak Region - "The policy of nationalisation of passenger services in the

rural areas of this region is approved by this Board and in fact it wants this policy to be executed as quickly as possible in this region" - decision of the Board meeting held on 25-5-48.

9) The draft of scheme of nationalisation of passenger service in rural areas in the Province of Bombay was published for the information of persons likely to be affected thereby under Home Department No.638/5, dated 14th January, 1947 and notice was given that Govt. of Bombay would take up for consideration the said draft scheme one month after the date of the publication in the Bombay Government Gazette.

10) Objections or suggestions which were to be received by the Provincial Motor Transport Controller, Industrial Assurance Building, Churchgate, Bombay from any person with respect to the said draft within the prescribed period were to be considered for by Govt.

11) The draft scheme was taken for consideration by the Government and the Assembly resolved to accord sanction to the proposal of the Bombay Government to nationalise the road transport service throughout the Province with a view.

- a) to increase the operation efficiency relating to the existing services,
- b) to ensure that they are run in the interest of the public and
- c) to secure proper co-ordination between road and rail transport.

12) The Assembly also directed that the following principles should be observed by Government while implementing this scheme.

- 1) A system of Central and Local Advisory Council should be devised to ensure that this work is properly guided by public opinion.

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ii) A minority interest should be allotted to the Railways to assist in the adequate integration of road and rail transport.

iii) All assets that may be acquired from transport operators should be purchased at a fair valuation.

iv) Compensation shall be payable to operators whose permits are unilaterally terminated by Government before their expiry.

13) It will thus be observed that:

1. The scheme of nationalisation was introduced in the public interest.

2. The scheme was given the widest publicity.

3. The Provincial Transport Authority and Regional Transport Authorities were consulted and the interests affected were also given adequate scope to ventilate their views.

4. The scheme of nationalisation was then submitted to the Assembly and both houses approved of it.

5. The Legislature directed Govt. to implement the scheme keeping in view the various principles enumerated above.

14) To facilitate the scheme of nationalisation of passenger Transport the M.V. Act 1939 was amended in 1947 by the Provincial Legislature. This was published after having received the assent of the Governor General in the Bombay Government Gazette on the 23rd March, 1947. Before this bill was introduced it had been circulated for the information of the public, it had been given wide publicity and the intention and the purpose of the amendment had been adequately publicised. All those who had any grievances or were likely to be affected, were given adequate opportunity to ventilate their

27-1-1950

15) In pursuance of the procedure laid down under the amended section 43 of the Motor Vehicles Act., Government issued intentional notice notifying the intention of Government to cancel the permits of the operators who held permits to operate services on the particular routes to which Government decided to extend the nationalised services from time to time. Accordingly an intentional notice was issued on the 31-9-1949 (Bombay Government Gazette Part 4-A pages 831 to 840) which inter-alia embodied the names of the petitioners and the routes operated by them. In accordance with these provisions of section 43 a notice actually to cancel the permits was to be issued by Government after the lapse of at least three months from the date of the publication of the intentional notice but in the meantime Government established a statutory Corporation in accordance with the provisions of the Section 3 of the Road Transport Corporation Act. 1948. According to this notification (No.1780/5, dated 16-11-49) the Corporation Board has been established and is functioning as a trading Corporation. Government therefore decided that as the administration of the State Transport had been transferred to the Statutory Corporation it would not be appropriate to follow the procedure laid down under the amended Section 43 and cancel the permit and therefore it was decided that the State Transport Corporation should apply for regular permits in the ordinary manner to the appropriate authorities so that the State Transport could claim the grant of permits in preference to the existing operators on the grounds such as -

1) Superior organization,

2) unlimited resources to provide amenities to the travelling public which the existing

273 1253

operators did not provide or could never be expected to provide.

3) Whatever advantages accrue from the operation of services revert entirely to the public.

16) Permits are issued for a specific period under Section 58 or Section 62. This connotes that no right legal or equitable is created in the permit holder for a perpetual permit. Permits are renewed under Section 58(2) but an application for renewal is to be treated under this clause as if they are for new permits which confirms the above view that a permit holder cannot claim a renewal as of right. Further the proviso under Sub-clause 2 of Section 58 provides that other conditions being equal, the application for renewal is to be given preference over new applications for permits. These are the conditions under which permits are granted or renewed. The granting authority is the R. T. A. If a party applies for renewal, and the renewal is refused it can appeal under Section 64(a) to the appellate authority prescribed under the act which is the appellate committee of the Provincial Transport Authority. It will thus be observed that the petitioner, if he were aggrieved could have appealed to the Provincial Transport Authority (if his application for renewal had been rejected) within 30 days as prescribed under rule 76 of the B.M.V. Rules.

17)

In the case of Chavan Motor Transport Co.

a) The regular permit expired on 6-1-50.

b) on 4-11-49 they asked for renewal of the permit but no application in the usual form was sent.

c) On 20-12-49 the petitioners applied for temporary permit for a month but temporary permit was issued on 31-1-50.

d) Application for a further period of temporary permit was received for a period from 7-2-50 to 6-3-50 but a temporary permit was granted upto 28-2-50.

e) The next application for renewal was received on 1-2-50 and a temporary permit was granted upto 31-3-50.

f) The subsequent application for a temporary permit is pending. (This firm has said to have submitted a list of assets to be sold to the State Transport but the forwarding letter is not in the file & the Belgaum office is being contacted in this connection)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND INHERENT JURISDICTION
C.A.NO. 330 of 1950.

In the matter of Motor Vehicles Act,
1939 Motor Vehicles (Bombay Amendment)
Act, 1947;

and

The Road Transport Corporation Act, 1948.

The Karnatak Express Motor Transport)
Ltd. and incorporated Company registered)
under the Indian Companies Act, 1913.)
having its registered office at Belgaum)
in the State of Bombay.) Petitioners.

v e r s u s .

1. The State of Bombay)
2. The Provincial Transport Officer)
of the Government of Bombay having)
his office at Churchgate x in Bombay;)

and

3. The Regional Transport Authority,)
Karnatak Region, Belgaum, being a)
body constituted under the Motor)
Vehicles Act, 1939.....) Respondents.

To,

The Hon'ble Chief Justice and the other Judges
of this Hon'ble Court.

The humble Petition of the Petitioners abovenamed.

Humbly Sheweth:-

1. The Petitioners are a Company registered under the
Indian Companies Act, having their office at Belgaum,
Respondent No. 2 is the officer of Respondents No.1 in
charge of the administration of the Motor Vehicles Act
and Respondents No.3 is the authority constituted under
the said Act.

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2. Prior to 1943 several persons carried on business of plying motor buses for Garriage of passengers on different routes in the Southern part of the State of Bombay. Acting under the directions given from time to time by the authorities administering the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act) the said persons in the year 1943 promoted the Petitioners' Company with themselves as members for the purpose of conducting the said business of passenger transport and for taking over the said several businesses of Motor Transport carried on by them. The Petitioners took over the said businesses and have been carrying on the business of Motor Transport on different routes in the Southern part of the State of Bombay. All the members of the Petitioners are domicile citizens of India.

3. After the businesses were taken over by the Petitioners as aforesaid the Petitioners were granted Stage Carriage Permit No.P.St.177(1-26) by the ~~and~~ authorities under the said Act of a duration contemplated by section 58 of the Act and the said Permit was renewed to the Petitioners under section 58 Sub-clause 2 and the duration of the last such renewed permit expired on 6th January 1947.

4. As required under law, on 4th November 1946 the Petitioners applied to the Regional Transport Authority, Karnatak Region, Belgaum for renewal of their aforesaid permit expiring on 6th January 1947. The said authority acting under the orders of the Respondents did not proceed with the said application in accordance with the provisions of the Sections 57 and 58 of the said Act but by their letter No. ~~201/4-B/KR~~ 201/4-B/KR of 46 dated 8.1.1947 informed the Petitioners that their permit would be renewed on temporary basis. Hereto annexed and collectively marked, Exhibit "A" are the copies of the said application and the letter. The said Authority accordingly renewed the permit for Stage Carriages

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from time to time for a duration only of a period of four months at a time upto 6.1.1950 and thereafter from 7.1.1950 to 31.1.1950 and from 1.2.1950 to 28.2.1950 and from 1.3.1950 to 31.3.1950.

5. On 20th September 1949 the Secretary of the Regional Transport Authority, Belgaum by his letter of that date forwarded to the Petitioners a copy of the Government Notification Home Department No.4714/5 dated 31.8.1949 which declared the intention of the Government to cancel the permits specified in the Schedule annexed to that Notification which included the permit of the Petitioners and proceeded to state that that Officer was directed to inform the Petitioners that although the validity of the Petitioners' Temporary Permit extended beyond 30.11.1949 the same should be treated as valid upto 30.11.1949.

6. The Government Notification No.4714/5 aforesaid was purported to be issued in exercise of the powers conferred by sub-section (1) of section 43 of the said Act and stated that the Government was pleased to make the declaration of its intention to cancel the permits specified in the Schedule thereto and that in doing so Government had regard to the provisions of clauses (a) to (d) of sub-section (1) aforesaid and that Government had heard the representatives of the interests affected and had consulted the Provincial Transport Authority, Bombay and the Regional Transport Authority, Belgaum. The Petitioners state that the Petitioners and several other owners of Transport business in the Karnatak Region were vitally affected by the ^{powers} ~~aforesaid~~ exercised by the Government and by the Notification aforesaid and yet, no representative of the Petitioners was heard as stated in the said Notification and that the Petitioners on inquiries have learnt that no representative of any of the owners of the Motor Transport businesses in the Karnatak Region was heard by Government or by any of its officers regarding the issue of the said Notification and the dec-

283 1/10 263

declaration therein or the exercise of the powers therein mentioned.

7. Subsequent to the date of the said Notification the Secretary, Regional Transport Authority, Belgaum by his letter dated 1.2.1950 informed the Petitioners that the State Transport may take over the services operated by the ~~Petitioners~~ Petitioners on the routes specified in the said letter or any portions thereof from 1.3.1950. Hereto annexed and marked Exhibit "B" is a copy of the aforesaid letter.

Ex. "B".

8. The Petitioners state that the action of the Respondent No.1 in issuing the said Notification No.4714/5 has been mala-fide inasmuch as Respondent No.1 or any other Respondents have not at all heard the ~~resp~~ representatives of the interests affected by the said Notification. The Petitioners submit that the said Notification is illegal, void and inoperative. The Petitioners further submit that the conduct of the officers of the Government including the Secretary, Regional Transport Authority, Belgaum and of the said Respondents 2 and 3 subsequent to the issue of the said Notification has been guided by the directions given to them from time to time by Respondent No.1 in pursuance of the declaration of intention contained in the said Notification and that acting on the said directions the said officer and authority have refused to consider the application of the Petitioners for renewal of their permit and have failed and neglected to follow the provisions laid down in sections 57 and 58 and to renew the permit of the Petitioners for a period not less than three years, and have thus acted in contravention of the provisions of the said Act and have renewed from time to time the Permit of the Petitioners for very short durations as stated in para 4 hereof. The aforesaid conduct of the Respondents and of the officers of the Respondents acting under the directions of the Respondents has been contrary to the provisions of the said Act.

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9. For about past three years the Respondent No.1 have been following what they call the policy of nationalisation of Road Transport services and in pursuance thereof they started a Department of State Transport which has been plying motor buses for transport of the passengers in several parts of the State of Bombay. Eventually in exercise of the powers conferred upon them by the Road Transport Corporation Act, Act XXXII of 1948 Respondent No.1 have purported to constitute the Bombay State Road Transport Corporation by their Notification No.1780/5 dated 16th November 1949 and have thereunder appointed certain persons to constitute the Board and have transferred their entire business of plying Motor buses for carrying passengers to the said Corporation.

10. At all times material to this Petition the 2nd Respondent has been the Provincial Head of the Officers administering the said Act and has also held the position of the Provincial Head of the Transport business carried on by the 1st Respondent as State Transport, as also of the newly set up Bombay State Road Transport Corporation. With a view to carry out the policy of the 1st Respondent calculated to oust and supplant the entire business of the Motor Transport by private individuals the 2nd Respondent and the officers subordinate to him as well as the Provincial Transport Authority Bombay and Respondent No.3 have acted in accordance with the directions of the 1st Respondent given to them and have not used any independent judgment of their own in deciding matters relating to the Permit of the Petitioners and the renewal thereof since 6th January 1947 and their decisions have been biased and prejudiced. The Respondents Nos.1 and 2 have in the above matters from time to time given directions to the Officers and to Respondent No.3 entrusted with the administration of the said Act which have resulted in violation of the provisions, of the said Act to grant of renewal of the Permit to the Petitioners and have

intentionally and deliberately violated and circumvented the provisions of the said Act as well as of the Road Transport Corporation Act relating to the prescribed amount of compensation payable to the ~~Parties~~ Petitioners in respect of the taking over of their business by passing such orders as will reduce to a minimum or to nothing the amount of compensation payable to the Petitioners in respect of their business and its goodwill under the said Act as well as the Road Transport Corporation Act.

11. That at the instance of the 1st and the 2nd Respondents, the 3rd Respondent addressed to several owners of passenger bus services in Karnatak Region a letter identical in terms with the said letter dated 20.9.1949 and also renewed their permits on a temporary basis between 7.1.1947 to the date of this Petition, the renewals were all made for the same periods as the renewals of the Petitioners' permit. The obvious object of the said letter dated 20.9.1949 and similar letters addressed to other was that as soon as the buses of the State Transport or the said Corporation were ready to start working in any area the Regional Transport Authority concerned would cancel the subsisting permits of the private operators and would ~~xxxxx~~ refuse to renew any permit which had expired.

The Petitioners state that the temporary renewals of the permits of the Petitioners and others in the area was devised to suit the convenience of the State Transport Department and the said Corporation who had not been able to complete their preparation for starting their services.

12. Under Article 14 of the Constitution of India the Petitioners are entitled to a treatment before the law and protection of the law equal with the Transport business carried on by the 1st and 2nd Respondents and with the business of the Bombay State Road Transport Corporation of which the 2nd Respondent is the Head. Under Article 19(g) of the Constitution of India the Petitioners have the right to the freedom of carrying on the business

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of plying passenger bus services.

13. On account of the facts and circumstances aforesaid and the events that have happened in the proceedings relating to the renewal of the Permits of the Petitioners, the Petitioners have had no fair trial and the Petitioners apprehend that they have no chance of a fair trial of their case at the ~~xxx~~ hands of the officers and official bodies administering the Motor Vehicles Act and that the fundamental rights under Articles 14 and 19(g) of the Constitution are violated by the Respondents and the officers and bodies administering the said Act. The Respondents have failed to notice that after the passing of the Road Transport Corporation Act and after the Constitution of India came into force such of the provisions of the said Act as contravene the provisions of the Road Transport Corporation Act and the fundamental rights of the Petitioners are inoperative and that the Respondents and all officers are bound to administer the said Act so as not to violate the fundamental rights of the Petitioners.

14. The Petitioners state that with the object of totally ousting the Petitioners from their business and its stead carrying on similar business themselves through the Bombay State Road Transport Corporation and with the object of depriving the Petitioners of their business and any right to claim compensation for goodwill, loss of business and the capital invested therein the Respondents have failed and neglected to and have directed their officers not to renew the permit of the Petitioners and have threatened to cancel the same from 1.4.1950, and misused the powers under the provisions of the said Act.

15. The Petitioners submit that the functions to be discharged by the 2nd Respondent and the officers and bodies subordinate to him in the matter of renewal of stage Carriage Permit of the Petitioners and of taking over and ascertaining compensation for the business of the Petitioners are judicial functions and that the 2nd Respondent and the officers subordinate to him including the Provincial

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Transport Authority, Bombay and Regional Transport Authority, Respondent No. 3 have acted in accordance with the directions of the 1st and 2nd Respondents and failed to exercise their discretion and the powers vested in them and acted irregularly therein and have acted in excess of the jurisdiction vested in them by the said Act read with and controlled by Part III of the Constitution of India.

15(a) The Petitioners submit that it is in the interest of justice that this Hon'ble Court should issue a Writ of ~~Prohibition~~ Prohibition or make other suitable order against the Respondents ordering them or any of them not to do any Act or pass any order based on the said Government Notification No. 4714/5 dated 31.8.1949 and also not to do any act or pass any order which will have the effect of ousting the Petitioners from or depriving them of their existing business of Transport by Stage Carriages.

16. The Petitioners submit that under the circumstances it is necessary in the interest of justice that this Hon'ble Court should issue the Writ of Certiorari calling for the records of proceedings relating to the Permit for Stage Carriages of the Petitioners before the Hon'ble Court and after looking into the same to revise the orders ~~has~~ hitherto passed and pass such orders and give such directions as may be just and equitable.

17. The Petitioners submit that it is in the interest of justice that the Respondent No. 3 be ordered by an order and a mandatory injunction of this Hon'ble Court to renew the permit for Stage Carriage of the Petitioners for a period not less than three years.

18. The Petitioners submit that it is necessary in the interest of justice that the Respondents be prohibited by a Writ of Prohibition from themselves issuing orders or giving directions to the officers or bodies administering the said Act to cancel the Stage Carriage Permit of the Petitioners and from passing any orders other than the order renewing the Stage Carriage permit

of the Petitioners and from doing any act calculated to prejudicially affect the business of transport by Stage Carriages carried on by the Petitioners.

19. The Petitioners submit in the alternative that it is in the interest of justice that this Hon'ble Court will in the exercise of its powers of superintendence call for the records of proceedings relating to the Stage Carriage Permit of the Petitioners and pass such orders as justice of the case may require.

20. The Petitioners say, that they have no specific and adequate legal remedy other than the orders prayed for herein, and that the remedy applied for by them will be complete. The Petitioners submit that the orders prayed for by them are the only remedy open to them and if the same are not granted it will be impossible for them to obtain redress.

21. Under the circumstances aforesaid the Petitioners state that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners.

22. The orders passed by and directions given by the Respondents Nos.1 and 2 were all passed and given in the City of Bombay, the orders passed by Respondent No.3 and the officers and bodies subordinate to the Respondents were passed within the ~~State~~ State of Bombay and this Hon'ble Court will have jurisdiction to entertain this petition.

23. The Petitioners, therefore, pray:-

- (a) That this Hon'ble Court may be pleased to issue a Writ of Prohibition or other suitable Order against the Respondents ordering them or any one of them not to do any act or pass any order based on the said Government Notification

No. 4714/5 dated 31.8.1949 and also not to do any act or pass any orders which will have the effect of ousting the Petitioners from or depriving them of the existing business of transport by State Carriages.

(b) That this Hon'ble Court may be pleased to issue a Writ of Certiorari calling for the records of proceedings pending before the Regional Transport Authority, Belgaum relating to the permit for Stage Carriages of the Petitioners before this Hon'ble Court and after ~~it~~ looking into the same to revise the orders hitherto passed and pass such orders and given such directions as may be just and necessary;

(c) That this Hon'ble Court will be pleased to issue a mandatory injunction against the Respondent No.3 and order them to renew the permits for Stage Carriage of the Petitioners for a period for less than three years:

(d) That in the alternative in exercise of the power of Superintendence this Hon'ble Court may be pleased to call for records of proceedings relating to the Stage Carriage Permit of the Petitioners and pass such orders as justice of the case may require - •

(e) This Hon'ble Court may be pleased to order that pending the hearing and final disposal of this Petition the Respondents may be restrained by an order and injunction of this Hon'ble Court from passing any order cancelling the permit of the Petitioners and from doing or omitting to do or pass any orders calculated to affect prejudicially the business of Transport by Stage Carriages carried on by the Petitioners and may further be ordered to renew the Permit.

(f) That such order as to this Hon'ble Court may seem fit be made as regards the costs of the Petitioners of this Petition:

and

(g) That the Petitioners may have such further and other relief as the nature of the case may require.

(Usual affirmation clause follows)

Petition Drawn by:

Messrs. Gokhale Kāle & Co.
Attorneys-at-Law.

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EXHIBIT "A" (Collectively)

Phone No.87

Tel.Add: Karnatak Express.

THE KARNATAK EXPRESS MOTOR TRANSPORT LTD.

Head Office: BELGAUM.

Date: 4.11.46.

To,

The Regional Transport Authority,
Karnatak Region, Belgaum.

Sir,

We beg to state that our permit No.P.St.S.177(1-26) expires on the 6th of January 1947. Hence we request your honour to kindly renew the same extending the period for three years more from the date its expiry.

Thanking your honour and hoping to be obliged.

Yours obediently,

Sd/-
Manager

For M/S Karnatak Express Motor.
Transport Ltd. Belgaum.

VERY URGENT.

No.201/4-B/KR of 46.
Regional Transport Office,
Belgaum 8.1.47.

To

The Manager,

1. M/S Karnatak Express Motor Tr.Ltd.Belgaum.
2. M/S Joint Motor Service Co., Muddebihal.
3. M/S Shri Laxmi Motor Service, Hubli.
4. M/S New Central Tr.Co.Ltd.,Gokak.
5. B.S.Khodanpur, Esq., Dharwar.

Subject:- Your Application dated

Sir,

I have ~~the~~ to inform you that the Regional Transport Authority, K.R.Belgaum at its meeting held on 7.1.47, decided to renew your P.St. No.177(1-26) on a temporary basis by granting temporary permits for 4 months from the date of its expiry on condition that on those routes where the fares are less than 9 pies per passenger per mile, the existing fares should be continued and on

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routes where the existing fares are 9 to 10 pies per passenger per mile, the fares should be reduced to 8 pies per passenger per mile and where the existing fares are 11 or 12 pies per passenger per mile, they should be reduced to 9 pies per passenger per mile. You should therefore, commence charging at the new rate with effect from 10.1.1947 without fail, and exhibit amended rates tables and forwarded triplicate copies of the same immediately in any case on or before 20.1.47 to this Office. Applications for temporary permits should be submitted along with the following information for each route.

S.No.	Name of route	Exact distance.	~~The Existing~~	~~Existing~~
			The Existing fare for the route.	Existing rate per passenger per mile.

Your obedient servant,
Sd.

Regional Transport Officer,
Karnatak Region, Belgaum.

EXHIBIT "B"

R.P.A.D.

30 (202) 201
No.953/4-B/K.R of 1950.
Office of the Regional Transport
Officer,
Karnatak Region,
Belgaum, 1st February 1950.

To

M/S Karnatak Express Motor Transport Company,
Ltd., Belgaum.

Sub:- Nationalisation of Bus Services:-
Taking over of Routes.

Sir/Sirs,

This is to inform you that it is likely that the State Transport may take over the services operated by you on the following routes or any portions thereof from 1st March 1950. The Divisional Controller, State Transport, Belgaum Division will address you separately regarding interviews and appointments of your employees in the State Transport. In the meanwhile, you are requested to furnish this office within seven days from the date of receipt hereof triplicate copies of the fare and time tables in respect of your services on the following routes or any portions thereof:-

S.No.

Route:-

1. Belgaum-Bailhongal-Saundatti.
2. Dharwar-Saundatti, Munoli-Yargatti-Gokak Rd.Stn.
3. Belgaum- Yergatti-Ramdurg-Bagalkot.
4. Yergatti-Bagalkot.
5. Saundatti-Ramdurg.
6. Belgaum Sawantwadi.
7. Sawantwadi-Vengurla.
8. Sawantwadi-Amboli-Ajra.
9. Sawantwadi-Danoli.
10. Belgaum-Deshnur.
11. Belgaum-Ankalgi.
12. Belgaum-Gokak.
13. Belgaum-Parishwad.
14. Belgaum-Tolgi.
15. Bailhongal-Kittur Via Bagewadi.
16. Bailhongal-KitturxxxxxxDharwar, via Nesargi,Murgod.
17. Belgaum-Alnawar via -do-
18. Belgaum- Bailhongal -do-
19. Bailhongal-Gokak via Nesargi, Murgod, Yergatti.
20. Chandargi-Sureba via Ramdurg.
21. Belgaum-Dharwar.

Yours faithfully,
Sd/
Secretary,
Regional Transport Officer.

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- 1) Under Chapter IV of the Motor Vehicles Act 1939 transport authorities have been constituted by Government consisting of official and non-official members to discharge the obligations enjoined in the Chapter. The main function of these transport authorities is to control the operation of transport vehicles through a system of permits.
- 2) Regional Transport Authorities can issue permits of various types. Under Sec.47 the Regional Transport Authority can grant a permit for stage carriages taking into consideration the various matters inter-alia -
 - i) The interest of the public generally.
 - ii) Advantages to the public of the service to be provided.
 - iii) Benefit to any particular locality or localities etc.
- 3) If a permit is rejected there is a provision under the act for the aggrieved party to file an appeal to the appropriate authority prescribed in the act. In rule 76 of the B.M.V. rules the appellate authority to hear appeals against grant or refusal of permits is the Provincial Transport Authority and there is also provision for revisionary appeal which lies with Govt. if the party is aggrieved by the decision of the appellate authority.
- 4) Under Sec.58 a permit is to be granted for any period between 3 to 5 years.
- 5) Under Sec.62 a temporary permit can be issued either for casual purpose or pending disposal of the application for regular permits for any period upto four months.

6) Under Sec.57 an application is to be submitted for a regular permit atleast 6 weeks before the date on which it is intended to start the operation of the service.

7) Under Sec.43 of the M.V.Act Government has the responsibility to control the road transport in such a manner as to -

- a) Provide advantages to the public, trade and industry.
- b) Coordinate road and rail transport.
- c) Prevent deterioration of the road system.
- d) Prevent uneconomic competition among transport operators.

8) In pursuance of these obligations mentioned in para.7 Government considered various possibilities of re-organising transport to achieve the above objectives. The Scheme of nationalisation of road transport was considered by Govt. as the most suitable method of improving the transport system of the Province in the public interest. The scheme was notified in the press on the 14th January 1947 and public opinion was invited. It was further submitted for the consideration of the Legislative Assembly and Legislative Council. Both the houses approved of the scheme. The approval of the legislature was communicated to Government vide Legislative Department No.3112, dated 20th October 1947. The scheme was also referred to the Provincial Transport Authority and Regional Transport Authorities ~~and the~~ of regions, and all Regional Transport Authorities and the Provincial Transport Authority approved the scheme of nationalisation. The following is an extract from the letter received from the Secretary, Regional Transport Authority, Karnatak Region, embodying decision of the Regional Transport Authority, Karnatak Region - "The policy of nationalisation of passenger services in the

rural areas of this region is approved by this Board and in fact it wants this policy to be executed as quickly as possible in this region" - decision of the Board meeting held on 25-5-48.

9) The draft of scheme of nationalisation of passenger service in rural areas in the Province of Bombay was published for the information of persons likely to be affected thereby under Home Department No.638/5, dated 14th January, 1947 and notice was given that Govt. of Bombay would take up for consideration the said draft scheme one month after the date of the publication in the Bombay Government Gazette.

10) Objections or suggestions which were to be received by the Provincial Motor Transport Controller, Industrial Assurance Building, Churchgate, Bombay from any person with respect to the said draft within the prescribed period were to be considered ~~for~~ by Govt.

11) The draft scheme was taken for consideration by the Government and the Assembly resolved to accord sanction to the proposal of the Bombay Government to nationalise the road transport service throughout the Province with a view.

- a) to increase the operation efficiency. relating to the existing services,
- b) to ensure that they are run in the interest of the public and
- c) to secure proper co-ordination between road and rail transport.

12) The Assembly also directed that the following principles should be observed by Government while implementing this scheme.

- i) A system of Central and Local Advisory Council should be devised to ensure that this work is properly guided by public opinion.

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- ii) A minority interest should be allotted to the Railways to assist in the adequate integration of road and rail transport.
- iii) All assets that may be acquired from transport operators should be purchased at a fair valuation.
- iv) Compensation shall be payable to operators whose permits are unilaterally terminated by Government before their expiry.

It will thus be observed that:

1. The scheme of nationalisation was introduced in the public interest.
2. The scheme was given the widest publicity.
3. The Provincial Transport Authority and Regional Transport Authorities were consulted and the interests affected were also given adequate scope to ventilate their views.
4. The scheme of nationalisation was then submitted to the Assembly and both houses approved of it.
5. The Legislature directed Govt. to implement the scheme keeping in view the various principles enumerated above.

14) To facilitate the scheme of nationalisation of passenger Transport the M.V. Act 1939 was amended in 1947 by the Provincial Legislature. This was published after having received the assent of the Governor General in the Bombay Government Gazette on the 23rd March, 1947. Before this bill was introduced it had been circulated for the information of the public, it had been given wide publicity and the intention and the purpose of the amendment had been adequately publicised. All those who had any grievances or were likely to be affected, were given adequate opportunity to ventilate their grievances, if any.

15) In pursuance of the procedure laid down under the amended section 43 of the Motor Vehicles Act., Government issued intentional notice notifying the intention of Government to cancel the permits of the operators who held permits to operate services on the particular routes to which Government decided to extend the nationalised services from time to time. Accordingly an intentional notice was issued on the 31-9-1949 (Bombay Government Gazette Part 4-A pages 831 to 840) which inter-alia embodied the names of the petitioners and the routes operated by them. In accordance with these provisions of section 43 a notice actually to cancel the permits was to be issued by Government after the lapse of at least three months from the date of the publication of the intentional notice but in the meantime Government established a statutory Corporation in accordance with the provisions of the Section 3 of the Road Transport Corporation Act. 1948. According to this notification (No.1780/5, dated 16-11-49) the Corporation Board has been established and is functioning as a trading Corporation. Government therefore decided that as the administration of the State Transport had been transferred to the Statutory Corporation it would not be appropriate to follow the procedure laid down under the amended Section 43 and cancel the permit and therefore it was decided that the State Transport Corporation should apply for regular permits in the ordinary manner to the appropriate authorities so that the State Transport could claim the grant of permits in preference to the existing operators on the grounds such as -

1) Superior organisation,

2) unlimited resources to provide amenities to the travelling public which the existing

operators did not provide or could never be expected to provide.

- 3) Whatever advantages accrue from the operation of services revert entirely to the public.

16) Permits are issued for a specific period under Section 58 or Section 62. This connotes that no right legal or equitable is created in the permit holder for a perpetual permit. Permits are renewed under Section 58(2) but an application for renewal is to be treated under this clause as if they are for new permits which confirms the above view that a permit holder cannot claim a renewal as of right. Further the proviso under Sub-clause 2 of Section 58 provides that other conditions being equal, the application for renewal is to be given preference over new applications for permits. These are the conditions under which permits are granted or renewed. The granting authority is the R. T. A. If a party applies for renewal, and the renewal is refused it can appeal under Section 64(a) to the appellate authority prescribed under the act which is the appellate committee of the Provincial Transport Authority. It will thus be observed that the petitioner, if he were aggrieved could have appealed to the Provincial Transport Authority (if his application for renewal had been rejected) within 30 days as prescribed under rule 76 of the B.M.V. Rules.

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17) So far as Karnatak Motor Transport Co. is concerned -

- a) The regular permit expired on 6-1-47.
- b) No application for renewal of regular permits on the file.
- c) The first application for temporary permit in form P.Tem. A dated 3-1-47 for a period from 7-1-47 to 6-5-47 was made by the applicant and a temporary permit for 4 months was granted upto 6-5-47.
- d) Subsequently temporary permits were issued for 4 months each time regularly for the last three years.
- e) Last application for a temporary permit for 4 months was received on 30-8-49 and a temporary permit for 4 months was issued upto 6-1-50.
- f) The next application for a temporary permit was received on 28-11-49. A temporary permit ~~was~~ valid upto 31-1-50 was issued.
- g) The next application for one month was received and a temporary permit was issued upto 28-2-50.
- h) The last application for further renewal was received on 2-2-50 and a temporary permit valid upto 31-3-50 was issued.
- i) Further application from 1-4-50 is pending.

Two most important points in this case

The firm not only applied in its own behalf but their Director applied on behalf of all the operators in Belgaum Division that they may be given time to wind up.

Secondly in response to R.T.Os letter the firm gave a list of assets to be sold to the State Transport

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which was to take over the services on the particular routes. Thus, the firm had completely acquiesced with the position and have therefore no grievances to nurse against the State Transport taking over the services.